



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 28, 2006

Call to Order The regular meeting of the Sussex County Council was held Tuesday, February 28, 2006 at 10:00 a.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 143 06 A Motion was made by Mr. Dukes, seconded by Mr. Cole, to amend the
Approve Agenda by deleting “Rehoboth Beach – Dewey Beach Chamber of
Agenda Commerce – Destination Station Center” and the Community Improvement
Grant Request from “Historic Lewes Cat Society”, 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**

M 144 06 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the
Approve minutes of February 7, 2006.
Minutes

Motion Adopted: 5 Yea.

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

Corre- Mr. Griffin read the following correspondence:

spondence

LEAHMOND TYRE FOR ROSE BURTON.

RE: Letter expressing gratitude to William Lecates and Al Phillips, Sussex County Community Development Office, for their assistance in cleaning up debris from demolished houses in Frankford.

**Annual
Financial
Report
Annual
Financial
Report
(continued)**

Mr. Baker and the accounting firm of Jefferson, Urian, Doane & Sterner, P.A., Certified Public Accountants, presented the Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2005.

Mr. Baker announced that a “Certificate of Achievement for Excellence in Financial Reporting” was presented recently to Sussex County, Delaware, for its Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2004, by the Government Finance Officers Association (GFOA) of the United States and Canada. This is the fourth year in a row that the County has received this award.

**M 145 06
Accept
Annual
Financial
Report for
Fiscal
Year
Ended
June 30,
2005**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council accepts the Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2005, as audited by Jefferson, Urian, Doane & Sterner, P.A. and recommended by the County Administrator and Finance Director.

Motion Adopted: 5 Yea.

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

**M 146 06
Adopt
Procla-
mation**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proclamation entitled “PROCLAIMING THE MONTH OF MARCH AS WOMEN’S HISTORY MONTH AND MARCH 1, 2006 AS GERRY ROYAL AND LIANE SORENSON DAY”.

Motion Adopted: 5 Yea.

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

**Dredging
of the
Nanticoke
River**

Steve Masten, Director of Economic Development, reported on the Dredging of the Nanticoke River. This issue was discussed at length during the February 7th Council meeting, at which time the Council voted to recognize the economic impact of dredging the Nanticoke River and directed the County Administrator and the Economic Development Office to work cooperatively with the Army Corps of Engineers in securing a placement site.

Mr. Masten reported that a possible location has been identified near a former placement site (the Gum Tract which is now State property). The

proposed site is contiguous to State-owned lands, which would provide an access to the property.

Mr. Masten advised that it would be necessary for the Army Corps to determine if the site is suitable; however, authorization is needed from the Council to initiate a formal dialog with the property owner, Delaware Department of Natural Resources and the Army Corps of Engineers.

**Dredging
of the
Nanticoke
River
(continued)**

Mr. Masten advised that, as a result of the discussion at the February 7th meeting, the Delmarva Water Transport Committee became aware of some issues of concern regarding the Nanticoke River and acknowledged that corrective action is needed. Mr. Masten stated that he and Joyce Coffield will be working with the Army Corps of Engineers, the Coast Guard and the State of Delaware to try to establish rules and regulations to police activities and identify navigational lanes on the Nanticoke River.

Joyce Coffield, Executive Director of the Delmarva Water Transport Committee, stated that they will be arranging a meeting between all of the interested parties to decide the best course of action to the benefit of everybody. She noted that it is not just barge companies affecting the River, it is also recreational vehicles that travel at excess speeds, causing additional wake.

Mr. Masten introduced property owners along the Nanticoke River who were in attendance to speak regarding problems they are experiencing.

Mr. Gundry expressed concern that the County is going to spend millions of dollars to correct “this problem” and yet if something isn’t done to correct the cause of the problem, the money will be wasted. He stated that a large percentage of the barges do not have the horsepower to move at a rate that causes a great deal of disturbance to the River; however, there are several barges that have too much horsepower and they displace a large amount of water which causes friction along the shoreline and the bank. He noted that there seems to be no one to guard the River and regulate barge activity. He reported that the barges have run into the bank on his property repeatedly and that they do not schedule their trips according to the tide. Mr. Gundry expressed concern that the dredging will cause trees to fall down.

Mr. Cole stated that Senator Biden, Senator Carper, and Representative Castle should be apprised of this situation.

Mr. Darby stated that right now, some of the barges are not able to be fully loaded and still get up the River and that if the River is dredged, there are going to be bigger and heavier barges; that there will be more problems; and that the area that his property is located on will be susceptible to more damage.

Mr. Masten reported that the Nanticoke River is authorized for a controlled

depth and the Army Corps of Engineers is responsible for the cost of the dredging; the local government is only responsible for the cost of the placement site. Mr. Masten estimated that 80,000 – 83,000 cubic yards of material needs to be dredged.

Mr. Stickels reported that the site identified as a potential placement site consists of a total of 211± acres; however, the County is looking at an area consisting of 45± acres. Mr. Stickels recommended that the County have the entire 211 acres appraised.

**M 147 06
Execute
Joint
Agreement
to Purchase
Land for
Placement
Site for
Dredging
of the
Nanticoke
River**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, that the President of the Sussex County Council is authorized to execute a Joint Agreement with Riley S. Williamson III, to purchase land to be approved by the Sussex County Council with the following contingencies:

- The Army Corps of Engineers is to review and approve the property.
- DNREC is to review and give their approval as to no wetlands.
- The State of Delaware is to provide a permanent easement for dredging equipment.
- Both parties are to agree to terms of sale.
- Provide access to land for review and inspection prior to sale.
- Survey of the property at the County's expense.
- Appraisal (approved appraiser) may be initiated by both parties at the County's expense.
- Permanent easement to be acquired to access the land for maintenance and removal of dredged material.

Motion Adopted: 5 Yea.

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

**Revenue
Sharing
for Local
Law
Enforce-
ment**

Mr. Stickels presented requests for funding through the Revenue Sharing for Local Law Enforcement Program, as follows:

Laurel	\$19,487.00 244.95 1,613.94	2006 Crown Victoria (police cruiser) Reflective markings for police cruiser Lights & equipment for police cruiser
Lewes	\$17,421.50	Computers, Security Camera, Security Door Key Entry System, ID Card Maker
Ocean View	\$ 7,760.06	2 Motorola mobile radios for patrol vehicles
Fenwick	\$ 6,872.93	Installment on 2004 Dodge Police Pursuit Intrepid (Annual Lease –

Purchase Payment)

Millsboro	\$25,000.00	2006 Durango and Emergency Equipment
Dewey Beach	\$25,000.00	2006 Ford 3/4 Ton Cargo Van (Prisoner van and prisoner transport kit)

M 148 06 **A Motion was made by Mr. Phillips, seconded by Mr. Jones, to approve**
Approve **Local Law Enforcement Grants for the following municipalities: Laurel,**
Local **Lewes, Ocean View, Fenwick, Millsboro, Dewey Beach, as presented.**
Law
Enforce- **Motion Adopted: 5 Yea.**
ment
Grants **Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**
 Mr. Dukes, Yea; Mr. Jones, Yea;
 Mr. Rogers, Yea

Wastewater **Mr. Stickels reviewed wastewater agreements for the Council's**
Agreements **consideration.**

M 149 06 **A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon**
Execute **the recommendation of the Sussex County Engineering Department, for**
Agreements/ **Sussex County Project No. 81-04, Agreement No. 471, that the Sussex**
Verandah **County Council execute a Construction Administration and Construction**
Bay **Inspection Agreement between Sussex County Council and DEVA Develop-**
 ment, Inc., for wastewater facilities to be constructed in Verandah Bay,
 located in the Fenwick Island 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 150 06 **A Motion was made by Mr. Dukes, seconded by Mr. Jones, based upon the**
Execute **recommendation of the Sussex County Engineering Department, for Sussex**
Agreements/ **County Project No. 81-04, Agreement No. 385, that the Sussex County**
Summer- **Council execute a Construction Administration and Construction**
crest **Inspection Agreement between Sussex County Council and Munson Street,**
 LLC, for wastewater facilities to be constructed in Summercrest, located in
 the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

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

M 151 06
Execute
Agreements/
The Inlet
at Pine
Grove

A Motion was made by Mr. Jones, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 400, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Waterside, LLC, for wastewater facilities to be constructed in “The Inlet at Pine Grove, located in the Ocean View Sanitary Sewer District.

M 151 06
(continued)

Motion Adopted: 4 Yea, 1 Abstention.

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

Adminis-
trator’s
Report

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

1. National Association of Counties Legislative Conference

The Sussex County Council will not meet on Tuesday, March 7, 2006, to allow the County Council and staff members to attend the National Association of Counties Legislative Conference in Washington, D.C. The conference will take place from Saturday, March 4, through Wednesday, March 8, 2006. The next regularly scheduled Council meeting will be held on Tuesday, March 14, 2006, starting at 6:30 p.m.

2. Beneficial Acceptance

Please be advised that the Engineering Department granted Beneficial Acceptance on February 10, 2006, for Canal Woods at Waterside R.P.C., Agreement No. 372. The developer is Circle J Ventures, L.L.C., and the project is located on County Road 361 in the South Bethany Sanitary Sewer District, consisting of 23 townhouses. A fact sheet on the project is included with this report.

3. Flying

Included with this report is a copy of an article that appeared in the magazine publication entitled Flying. Flying is the world’s most widely read aviation magazine. It has 275,000 paid subscriptions and some 1.2 million readers.

The Sussex County Airport is the subject of a column by Dick Karl. Mr. Karl’s piece focuses on everything from the history of the former Navy airfield to the substantial investments the County and federal government are making to improve the Sussex County Airport. Economic Development Director Steve Masten is quoted, and there are even a few passing references to some of the famous

names who have used our airport; but mostly Mr. Karl's piece highlights the convenience and charm offered by the Sussex County Airport.

4. Staffing

Adminis-
trator's
Report
(continued)

I am pleased to inform the Council that effective March 1, 2006, we will be adding additional staff members to the ranks of County employees. Mr. Hal Godwin will be joining Administration as Administrative Assistant to the County Administrator. Mr. Godwin has nearly two decades in public service as a councilman, mayor, and most recently as Town Manager of Milton.

Gina Jennings will fill a vacancy in the Accounting Division. Ms. Jennings brings to Sussex County accounting and financial experience, both in the public and private sectors.

Mr. Bob Jones, who has worked 20 years in the private sector with a local construction company, most recently overseeing construction staff, will begin as a Project Engineer. Mr. Jones will assist in the design and construction of wastewater expansion and other capital projects.

In addition, staffing changes will include the transfer of Patty Faucett, formerly of the Accounting Division, to Utility Billing as Assistant Director. Ms. Faucett will oversee office responsibilities for collecting payment of sewer and water services. This relocation is very important, as Mr. Leon Collins will be retiring on October 31, 2006, after 27 years of service.

Mr. Gary Tonge, who previously managed the phone system in the County, has been transferred to new responsibilities as Director of Utility Permits. Mr. Tonge has more than 20 years of field and managerial experience in the private sector working in the telecommunications industry.

In the coming weeks, the Sussex County Office of Public Information will begin a series of short profiles on the employees who will be assuming their new responsibilities at Sussex County government. Those profiles will appear on-line at www.sussexcountynj.gov/e-gov/pressreleases and in various local and regional newspapers.

5. Sea Air Village

I wish to inform the Council that a letter has been sent to Sea Breeze, L.P., the owners of Sea Air Village, that effective March 1, 2006, the County will not issue any placement permits or building permits for the manufactured home park shown on Sussex County Tax Map 3-34 13.00 3.10 until the Planning and Zoning Department has

received a survey from a licensed Delaware surveyor showing the corners of each site visibly marked and numbered by a permanent marker. Currently this park has six setback violations, and there are 51 open building permits that cannot be checked because of the lack of proper permanent markers. If markers are not placed within 90 days, the County's law department will take legal action to correct these violations.

**Proposed
Service
Charges,
Assessment
Rates, and
Budget
for the
Oak
Orchard
SSD**

Mr. Baker discussed the proposed service charges, assessment rates, and budget for the Oak Orchard Sanitary Sewer District. The estimated total project cost is \$12,548,000. Of that amount, \$7,402,000 (59 percent) will be funded by the following grants:

- USDA - \$500,000
- County - \$1,469,000
- CDBG - \$963,000
- State - \$4,470,000

The remaining balance to be funded is \$5,146,000. This amount will be funded by bond issues; a USDA 40-year bond and two State Revolving Fund 20-year bonds. This would leave an annual debt service of \$293,000 to recover to pay back the bonds, which results in a front foot assessment of \$4.46 per front foot. The estimated service charge rate per EDU is \$224.48. Mr. Baker noted that the rates compare favorably to referendum approved rates (\$4.94 per front foot and a \$225.00 annual service charge rate). Mr. Baker noted that the referendum also included a connection fee of \$1,100.00 per resident; however, the County is not going to require existing residents to pay this amount. The County will fund the connection fee costs for existing customers out of the bond and grant funds. The County will charge a connection fee for new construction and new improvements. The total estimated annual charge for a typical resident with 75 front foot would be \$558.98. It is estimated that the project will be completed in April and hook-ups could begin at that time.

Mr. Baker reviewed two draft ordinances for introduction: one to authorize budget changes and one to establish rates, for the period April 1 through June 30, 2006. Upon introduction, the draft ordinances would be advertised for Public Hearing. A Public Hearing on the assessment rolls would also be held at that time.

**Introduction
of Proposed
Zoning
Ordinances**

Mr. Dukes introduced the Proposed Ordinances entitled "AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2006 TO INCORPORATE PROJECTED REVENUES AND EXPENDITURES FROM THE OAK ORCHARD SANITARY SEWER DISTRICT" and "AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT FOR OAK ORCHARD SANITARY SEWER DISTRICT".

**Airport
Hangar
Leases**

Steve Masten, Director of Economic Development, presented sixteen (16) Airport Hangar Leases for renewal. He noted that all of the tenants are current with their existing rental payments to the County. He proposed that the amount be increased to \$350.00 per month. He noted that two of the leases include an additional charge for storage space. He noted that they are proposing to streamline the leases so that they all have the same anniversary date of February 1 of each year and they would automatically renew unless a 60-day termination notice is received. The rental charge amount would escalate by a percentage increase equal to the most recent Consumer Price Index throughout any annual renewal period.

**Airport
Hangar
Leases**

(continued)

Mr. Masten presented the list of sixteen (16) tenants:

New T-Hangars

Hangar #1 – Donald E. Anthony	\$350.00
(End Storage Space)	50.00
Hangar #2 – Earl Waller	350.00
Hangar #3 – Powerlyne Systems	350.00
Hangar #4 – Lawrence Davis	350.00
Hangar #5 – Edwin T. Walls	350.00
Hangar #6 – Waterloo Ventures, LLC	350.00
Hangar #7 – Chrome World, Inc.	350.00
Hangar #8 - Dixie Construction Co., Inc.	350.00
Hangar #9 – Donald Orr	350.00
Hangar #10 – Thomas and/or Janice Jones	350.00
(End Storage Space)	42.00

Older T-Hangars

Hangar #1 – Robert D. Young	\$ 200.00
Hangar #2 – Lawrence Washburn	200.00
Hangar #3 – Francis Martin	200.00
Hangar #4 – Redi-Call Communications, Inc.	200.00
Hangar #5 – Georgetown Air Services, Inc.	280.00
(Larger/Multi Engine)	
Hangar #6 – Georgetown Air Services, Inc.	280.00
(Larger/Multi Engine)	

**M 152 06
Execute
Airport
Hangar
Leases**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, that the President of the Sussex County Council be authorized to execute one-year renewable lease agreements with the proposed tenants at the Sussex County Airport.

Motion Adopted: 5 Yea.

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

Mr. Rogers, Yea

**Airport
Hangar
Lease/
Hudson-
Thompson**

Mr. Masten presented another Lease Agreement; a pre-approved Lease with Hudson-Thompson for one of the new corporate hangars. Mr. Masten advised that Hudson-Thompson is proposing to construct a 8,000 – 10,000 square foot hangar at the location next to American Aerospace, rather than at the location they had originally indicated. They have asked that the Lease be changed to Meridian Leasing with the same terms: a 30-year lease with two 10-year extension options; a rental cost of \$750.00 per month; beginning with the sixth year of the Lease and continuing throughout the Lease, the rental amount shall escalate in an amount equal to the current CPI; upon signing the Lease, the tenant shall have 6 months to begin construction and 18 months to complete the project.

**Airport
Hangar
Lease/
Hudson-
Thompson
(continued)**

Mr. Masten noted that the County has already approved five of the corporate hangar leases and that this is simply a change in terms of one of the occupants.

**M 153 06
Approve
Lease/
Meridian
Leasing**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the Sussex County Council approves Meridian Leasing to a long-term property lease at the Sussex County Airport to construct a hangar without exceeding the 10,000 square foot maximum; prior to executing the lease, any lease changes would be reviewed and approved by the County Administrator, Finance Director and County Attorney and presented to the County Council for approval and execution.

Motion Adopted: 5 Yea.

**Paramedic
Vehicles/
Bid
Results**

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

Frank Shade, Purchasing Director, and Glenn Luedtke, Director of EMS, were in attendance to present the bid results for the rechassing of two Paramedic Response Vehicles. Four vendors responded to the advertisement with one vendor submitting two bids, as follows:

J & J Emergency Vehicles (Custom Body Works)	\$33,499.00
Singer Associates	\$35,355.00
J & J Emergency Vehicles (McCoy Miller)	\$36,533.00
DPC Emergency Equipment	\$39,813.00
Odyssey Automotive Specialty	\$54,945.00

- M 154 06**
Award
Bid for
Paramedic
Vehicles
- The EMS senior staff reviewed the bids and recommended that the bid be awarded to the low bidder, J&J Emergency Vehicles.
- A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council accepts the bid of J & J Emergency Vehicles (dba Custom Body Works) in the amount of \$33,499.00 each to rechassis two Paramedic Response Vehicles.
- M 154 06**
(continued)
- Motion Adopted:** 5 Yea.
- Vote by Roll Call:** Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea
- Modifi-**
cation of
Lease
Agreement/
Paramedic
Station/
Laurel
Fire
Department
- Glenn Luedtke, Director of EMS, presented a Modified Lease Agreement with the Laurel Fire Department for Paramedic Station 102. He reported that in October 2004, a Lease Agreement between Sussex County and the Laurel Fire Company was approved. At that time, they intended to construct a separate building to house the County's Paramedic Unit. That plan was abandoned and they revised their plans to house the County's Paramedic Unit within the main station. They are currently making those modifications to the Station. Mr. Luedtke explained that the initial lease was modified to accommodate the change in location; and that all other terms would remain the same.
- M 155 06**
Approve
Revised
Lease
Agreement
with Laurel
Fire
Department
for
Paramedic
Station
- A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council approves the revised Lease Agreement between the Laurel Fire Company, Inc. and Sussex County, Delaware, for the use of a portion of their building in the Town of Laurel, as described therein, by Sussex County EMS as Paramedic Station 102.
- 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
Appeals
- The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE VII RELATING TO APPEALS" (as it relates to the Subdivision Ordinance).
- The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on November 3, 2005. On November 17, 2005, the Commission recommended approval of the Proposed Ordinance with revisions.
- The County Council held a Public Hearing on November 8, 2005. They discussed the Proposed Ordinance again on February 14, 2006 at which

time action was again deferred.

(For additional information, see the minutes of the Planning and Zoning Commission dated November 3 and November 17, 2005 and the minutes of the Sussex County Council dated November 8, 2005 and February 14, 2006.)

Proposed Ordinance Relating to Appeals (continued)

At the February 14th meeting, the Council discussed the following amendments to the Proposed Ordinance; 30 days to appeal; 30 days to submit a transcript; and 30/60 days for the Council to make a decision; and that if the Council fails to render a decision in that time, it would be deemed that the action taken by the Commission is upheld and the appeal denied (30 days meaning calendar days).

The Council discussed the point of applicability of the ordinance amendment. The following was recommended by the Planning and Zoning Commission: The amended appeal procedure shall apply to any preliminary plat approved or denied after the adoption of this amendment. Mr. Phillips suggested that the ordinance amendment should only apply to new applications and that any applications in the “pipeline” should not be subject to the new ordinance.

**M 156 06
Amend
Proposed Ordinance Relating to Appeals**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to amend Section G on Page 3 by deleting “approved or denied” and inserting “applied for” to clarify that the procedure shall apply to Preliminary Plats applied for after the date of adoption of this Amendment.”

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 157 06
Amend
Proposed Ordinance Relating to Appeals**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to amend section B-1 on Page 1 by deleting “45 days” and inserting “30 days” in reference to the time afforded the appellant to have a certified court reporter prepare a verbatim transcript of the hearing record before the Commission at the appellant’s expense...”

Motion Adopted: 3 Yea, 2 Nay.

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

**M 158 06
Amend
Proposed**

The Council discussed the number of days that the County Council would be required to act on the record of the hearing before the Commission.

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

**Ordinance
Relating
to Appeals**

Section 2 (c) on Page 2 by deleting “60 days” and inserting “30 days” in reference to the number of days by which the Council must take action on an appeal.

Motion Denied: 4 Nay, 1 Yea.

**M 159 06
Amend
Proposed
Ordinance
Relating
to Appeals**

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

A Motion was made by Mr. Dukes, seconded by Mr. Jones, that Section (c) on Page 2 shall read as follows “Within 60 days from the receipt of the transcript, Council shall act on the record of the hearing...”

Motion Adopted: 5 Yea.

**M 160 06
Adopt
Ordinance
No. 1829**

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

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1829 entitled “AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE VIII RELATING TO APPEALS”, as amended.

Motion Adopted: 4 Yea, 1 Nay.

**Old
Business/
C/Z
No. 1577
and
No. 1578/
PGS
Properties**

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

The County Council discussed the Proposed Ordinances 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.49 ACRES, MORE OR LESS” (Change of Zone No. 1577) and “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 12.68 ACRES, MORE OR LESS.(Change of Zone No. 1578) filed on behalf of PGS Properties.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinances on July 28, 2005. On January 4, 2006, the Commission recommended that the applications be approved.

The County Council held a Public Hearing on the Proposed Ordinances on

August 16, 2005 at which time action was deferred.

Mr. Lank, Director of Planning and Zoning, read additional proposed findings of fact for the Council's consideration.

**Old
Business/
C/Z
No. 1577
and
No. 1578/
PGS
Properties
(continued)**

Mr. Cole noted that the Council previously requested comments from the Engineering Department and he questioned if written comments had been received. He noted that previous comments made by the Engineering Department in December stated that "wastewater capacity is not available for the project". Mr. Cole questioned if more recent comments had been received from the Engineering Department stating that the sewer system can handle the additional capacity and whether or not upgrades are planned in the area. Mr. Lank responded that no additional comments were received from the Engineering Department.

Mr. Stickels stated that in order for the applicant to get a site plan approval, they will need to obtain approval from the Engineering Department for wastewater.

Mr. Stickels stated that in meetings with the Engineering Department, it has been acknowledged that there are capacity problems in the area and that the County needs to build a new major transmission line from the pump station in the area to the South Coastal Regional Wastewater Facility (approximately 8 miles). The developers in the area are going to pay transmission fees and a surcharge to build the transmission lines.

**M 161 06
Adopt
Ordinance
No. 1827
(C/Z
No. 1577)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1827 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.49 ACRES, MORE OR LESS" (Change of Zone No. 1577) filed on behalf of PGS Properties.

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 162 06
Adopt
Ordinance
No. 1828
(C/Z
No. 1578)**

It was noted that the proposed project (Change of Zone No. 1578) has been limited by the applicant to 100 dwelling units.

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1828 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 12.68 ACRES, MORE OR LESS” (Change of Zone No. 1578) filed on behalf of PGS Properties.

Motion Adopted: 4 Yea, 1 Nay.

**Emergency
Operations
Center
Project/
Contract
Amendment**

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

Doug Stewart, Project Engineer, presented an amendment to the Engineering and Architectural Services Agreement with L. Robert Kimball & Associates for the Sussex County Emergency Operations Center. The original Agreement and Amendment No. 1 provided for the planning and design of the facility, which has been completed. The 13-month construction contract was awarded to Richard Y. Johnson & Son; a notice to proceed with construction is expected to be issued in March. Mr. Stewart advised that the County will need architecture, inspection, telecommunications, and technology services to help administer the construction contract. Based upon negotiations with the Engineering Department, Kimball & Associates has proposed to furnish the services on an as needed, time and material basis, for an amount not to exceed \$462,687.00. Mr. Stewart stated that Kimball & Associates will subcontract a portion of the work, including site inspections, to Whitman Requardt & Associates (WR&A) since they already have an inspector on site at the airport. He noted that this would provide a cost savings, as Kimball & Associates would not have to send personnel out of Pennsylvania ever week.

Mr. Jones questioned the subcontracting of work to WR&A.

**M 163 06
Approve
Contract
Amend-
ment/
Emergency
Operations
Center
Project**

Mr. Baker noted that Kimball & Associates will not get anything out of the portion subcontracted to WR&A.

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon the recommendation of the County Engineer, that Amendment No. 2 to the County’s Professional Design Services Agreement with L. Robert Kimball & Associates be approved in the not-to-exceed amount of \$462,687.00 to provide contract administration phase and telecommunications and technology consulting services for Sussex County Project No. 04-02, Emergency Operations Center.

Motion Adopted: 4 Yea, 1 Absent.

Requests

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

**M 164 06
Community
Improve-**

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

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$2,000

ment Grant **from Mr. Rogers' Community Improvement Grant to Harbour Lights Senior Center for new tables and chairs.**

Motion Adopted: 5 Yea.

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

**M 165 06
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$150.00 from Mr. Jones' Councilmanic Grant Account to the V.F.W. Department of Delaware for an advertisement.

Motion Adopted: 5 Yea.

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

Action on the funding request from the Town of Bridgeville was deferred.

**M 166 06
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$200.00 from Mr. Jones' Councilmanic Grant Account to the Woodbridge School District for the Accelerated Reader Program.

Motion Adopted: 5 Yea.

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

**M 167 06
County
Council
Grants**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$1,500.00 from County Council Grants to the Olde Tymer's Softball League for field improvements.

Motion Adopted: 4 Yea, 1 Absent.

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

**M 168 06
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00 (\$250.00 each from Mr. Rogers' and Mr. Jones' Councilmanic Grant Accounts) to Milford High School (MHS) After-Prom Committee for the After-Prom Party.

Motion Adopted: 5 Yea.

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

M 169 06 Councilmanic Grant A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$500.00 from Mr. Rogers' Councilmanic Grant Account to the Friends of Prime Hook for the Horseshoe Crab Festival (tent rentals and ancillary equipment).

M 169 06 (continued) Motion Adopted: 5 Yea.

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

M 170 06 Councilmanic Grant A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$500.00 (\$100.00 from each Councilmanic Account) to the Delaware Police Chiefs' Council, Inc. 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 171 06 Councilmanic Grant A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Account) to the Delaware Police Chiefs' Council, Inc. for expenses associated with the Staff Development Seminar to be held in May.

Motion Adopted: 5 Yea.

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

M 172 06 Councilmanic Grant A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Account) to Miss Delaware's Outstanding Teen for pageant sponsorship/scholarship award.

Motion Adopted: 5 Yea.

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

Introduction of Proposed Ordinance Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY

RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO AN AR-1 – RPC AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.84 ACRES, MORE OR LESS” (Change of Zone No. 1607) filed on behalf of Marine Farm, LLC. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 – RPC AGRICULTURAL RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY FOR A RECREATIONAL/THERAPEUTIC EQUESTRIAN FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.84 ACRES, MORE OR LESS” (Conditional Use No. 1678) filed on behalf of Marine Farm, LLC. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of 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 AN OFFICE AND WAREHOUSE BUILDING WITH AN APARTMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.0 ACRES, MORE OR LESS” (Conditional Use No. 1679) filed on behalf of Herker Property Maintenance Co. 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 BUSINESS PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED. SUSSEX COUNTY, CONTAINING 2.2905 ACRES, MORE OR LESS” (Conditional Use No. 1680) filed on behalf of Samir Ghabar. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of 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 A CAMPGROUND WITH AREA FOR BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 59.866 ACRES, MORE OR LESS” (Conditional Use No. 1681) filed on behalf of W. Edward Metz. The Proposed Ordinance will be advertised for Public Hearing.

M 173 06 At 1:05 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Jones, to

Recess recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Rogers called the Council back into session at 1:35 p.m.

Public Hearing (C/U No. 1637) 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 BUSINESS USE OFFICE PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 12.0388 ACRES, MORE OR LESS” (Conditional Use No. 1637) filed on behalf of Redden Development Group, LLC.

Public Hearing (C/U No. 1637) (continued) The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 9, 2006 at which time they recommended that the Proposed Ordinance be denied.

(See the minutes of the meeting of the Planning and Zoning Commission dated February 9, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission, and the Commission’s reasons for recommending that the application be denied.)

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 Council’s record.

Mr. Lank referred to the letter, dated January 17, 2006, which was received from the Office of State Planning Coordination, regarding PLUS comments and the Applicant’s responses. The letter was made a part of the Council’s record.

The Council found that John Murray, Project Manager of Kersher Engineering, was present on behalf of the application. The Redden Development Group partners present were Mike Cummings, Don Jester, and Joe Cochran. Mr. Murray stated that the applicants propose to develop a business park at the intersection of Redden Road and Route 113; that that they propose to erect eight (8) steel and block buildings, each containing approximately 9,900 square feet; that of that designated floor area, 3,980 square feet would be designated as general office space and 5,970 square feet would be designated for indoor storage of non-corrosive materials; that behind each unit, a 9,950 square foot outdoor storage area is proposed for non-corrosive, non-petroleum based materials; that storage areas would be surrounded by cyclone-type fencing with privacy slats installed; that a need exists for business pads for small businesses/new businesses in the area; that two of the partners, Mr. Cochran (excavating business) and Mr. Jester (landscaping business) would be operating their own personal businesses on the site; that the use is public or semi-public in character; that there would be no retail sales to the public proposed on the

Public
Hearing
(C/U
No. 1637)
(continued)

site; however, the businesses would be given the opportunity to allow general contractors to purchase materials for construction and agriculture; that interested parties have contacted them – an electrical contractor, an erosion and sediment control supply company, and Atlantic Tractor; that the entrance would be on Redden Road; that they have researched local agricultural businesses in Sussex County and they intend to send certified letters to 100 businesses giving them a first opportunity to have a business location on the site; that the center would serve as a center for agricultural-type servicing businesses; and that other businesses exist in the area.

The Applicants proposed the following conditions to address the concerns of the community:

- The storage of any materials on the site would be within the fenced yards and indoor storage and would be limited to non-corrosive and non-petroleum based materials.
- No manufacturing of any type would be permitted within the business park.
- The hours of operation would be limited to Monday through Friday from 7:00 a.m. to 6:00 p.m. and Saturday from 8:00 a.m. to 2:00 p.m., with no Sunday hours.
- Lighting on the site would be placed no more than 16 feet high from grade and with downward illumination.
- A business-type condominium association would be established for the maintenance of the central septic area proposed on the site, the stormwater management area necessary to satisfy the Sussex Conservation District and DNREC, the paving, the landscaping, and the overall property management.
- The screening of the outdoor storage shall be accomplished with the installation of cyclone type fencing with privacy slats installed.
- Trash receptacles would be placed within the fenced yards.
- No retail transactions to the general public would be permitted on the site.

Mr. Phillips questioned if the applicant would agree to a stipulation that 25 percent of the uses would support the agriculture economy. Mr. Cummings responded that he believed this would be an acceptable condition.

Mr. Griffin questioned the applicant's statement regarding deed restrictions. Mr. Cummings replied that they plan to form a Condominium Association and all businesses on site would have to abide by the condominium documents. Heidi Balliet, Attorney, stated that any conditions imposed by the Council would be incorporated into the condominium ownership for the sites. She noted that the reference to deed restrictions is actually the condominium documents.

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

**Defer
Action on
C/U
No. 1588** **Conditional Use No. 1588, filed on behalf of Redden Development Group, LLC. until March 14, 2006.**
Motion Adopted: 5 Yea.

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

**Proposed
Conditions** **The Council directed Mr. Lank and Mr. Griffin to develop proposed conditions for consideration on March 14, 2006.**

**Public
Hearing
(C/U
No. 1638)** **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 STORE FOR THE SALE OF LAVENDER AND LAVENDER PRODUCTS AND RELATED ITEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 1638) filed on behalf of Lavender Fields at Warrington Manor, L.L.C.**

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 9, 2006 at which time they recommended that the proposed ordinance be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated February 9, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission, and the Commission’s recommendation of approval.)

Mr. 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.

The Council found that Sharon Harris was present on behalf of the application. She stated that she is one of two owners of the property; that they propose a cottage store on the property for the sale of farm products grown on the property; that they would also like to sell certain items in the store that would not be grown on the property, i.e. vases, bottles, tea cups, candles, pottery, etc. – items primarily used for packaging lavender products; that they plan to be open April through December; and that the hours of operation proposed are 10:00 a.m. to 5:00 p.m. daily with other hours by appointment only.

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

**M 175 06
Adopt** **A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt Ordinance No. 1830 entitled “AN ORDINANCE TO GRANT A**

**Ordinance
No. 1830
(C/U
No. 1638)** **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORE FOR THE SALE OF LAVENDER AND LAVENDER PRODUCTS AND RELATED ITEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 1638) filed on behalf of Lavender Fields at Warrington Manor, L.L.C., with the following conditions:**

- M 175 06
(continued)**
- 1. There may be one unlighted sign not to exceed 32 square feet per side or facing.**
 - 2. Hours of operation shall be from 10:00 a.m. to 5:00 p.m. with other hours by appointment seven (7) days per week.**
 - 3. The site plan shall be reviewed and approved by the Planning and Zoning Commission.**
 - 4. An entrance permit shall be granted by 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/Z
No. 1588)** **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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 38,929 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1588) filed on behalf of Alan S. Rieck.**

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 9, 2006. On February 23, 2006 the Commission recommended that the proposed ordinance be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated February 9, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission, and the Commission’s recommendation of approval.)

Mr. 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 an Exhibit Booklet which was provided by the Applicant.

Mr. Lank read a letter into the record from Joann Bateson in opposition to

Public
Hearing
(C/Z
No. 1588)
(continued)

the application. The letter was made a part of the Council's record. She asked that the Council take her concerns into consideration for the residents of Red Mill Manor and the surrounding communities. She also provided a copy of a declaration of restrictive covenants and remedial clauses for Red Mill Manor; she highlighted the following: "All Buildings erected upon any lot or lots located within the aforesaid subdivision shall be restricted and limited to residential uses and purposes only" and "No trade or business of any kind or character nor any building designed or intended for such use shall be erected, permitted, maintained or operated within the subdivision except as agreed upon by a majority of the membership" and "The above restrictions can be altered or rescinded by the written consent of two-thirds of all property owners in the development at the time the vote is taken". She noted that the property owners expressed concern over commercial zoning on Lots 26, 27 and 28 and where the access to said lots would be granted and that it was stipulated that the Association would fight any rezoning and/or access from Pondview Drive, the entrance into Red Mill Manor.

Mr. Lank reported that, based on testimony and research, there is no record of any deed restrictions in the subdivision.

Mr. Willard, Attorney, stated that his office did a title search of Red Mill Manor and that no deed restrictions were found and that his client was not aware of any restrictions when he purchased the property.

Mr. Willard, Attorney; Ken Christenbury of Axiom Engineering; and Alan Rieck, Applicant, were present on behalf of the application. Mr. Willard stated that the site plan presented to the Commission had been changed by adding a 6-foot fence at the back, based on Ms. Bateson's concern. Mr. Willard advised that his client's first application was for a change of zone to C-1; however, County staff recommended that he apply for B-1 zoning; that the one acre parcel consists of three lots which were originally subdivided in the 1970's as Red Mill Manor; that the Land Use Element of the Comprehensive Plan Update indicates in the Guidelines for Non-Residential Uses that additional commercial uses will be needed in the Environmentally Sensitive Developing Areas and that these uses should be limited to neighborhood shopping and businesses to serve the rapidly expanding population; that some of the opposition letters say that the applicant should not have access onto Route One; that the site does not have access from the street in Red Mill Manor; that according to DelDOT, direct access to the Route One corridor may be permitted if reasonable alternative access (either to an existing secondary road or through an adjacent property) is not available, and that the Department will only issue entrance permits for direct access to the corridor for proposed land uses that generate 200 vehicular trips per day or less per parcel; that based on the proposed 8,500 square feet of general office use, the trip generation for a weekday would be 94 trips; that the Applicant should be allowed use of the property; that future design of Route One for additional lanes would provide a service road to the site; that the proposed office complex would generate less than

200 vehicular trips per day; that the location of the entrance is conceptual and has not been approved by DelDOT; that the limitation on trips per day will limit the use to offices; and that three EDUs have been allotted for the site by the Sussex County Engineering Department.

Public comments were heard.

Public
Hearing
(C/Z
No. 1588)
(continued)

Patricia Kelly, President of the Homeowners Association, stated that their primary concern is an entrance to the property off of Route One; that to change the zoning in a recorded subdivision to a conditional use or commercial use is taking something away from the residents of the subdivision; that they vehemently oppose the commercial use of the property; that she is confused about the application because she thought it was an application for a fence company; that once a change of zone is approved, the Applicant would be free to do any number of things with the property; that they question if a traffic light is going to be required; that there is a large ditch; and that there is no space for a deceleration lane.

Linwood Kelly stated that the Truitt family originally owned the entire plot that Red Mill Manor is situated on; that they are the ones that landlocked this parcel; that the sellers knew that the property was landlocked when they sold it; and that it is not feasible to change the zoning on a property that supposedly has no access.

Joann Bateson referred to her comments which were stated in her letter and read into the record; that existing businesses in the area look like homes; that the proposed office complex would be in her back yard; and that she has safety concerns regarding the entrance.

Mr. Lank read an email into the record stating DelDOT's position that "these parcels may have a single right in – right out entrance and an ADT no greater than 200 in accordance with the Corridor Capacity Preservation Program for this reach of SR1..."

The Public Hearing was closed.

M 176 06
Defer
Action on
C/Z
No. 1588

A Motion was made by Mr. Jones, seconded by Mr. Cole, to defer action on (Change of Zone No. 1588) filed on behalf of Alan S. Rieck pending receipt of the PLUS comments from the Office of State Planning Coordination and to leave the record open for a period of two weeks following the receipt of the PLUS comments for written comments from the Applicant and the public.

Motion Adopted: 5 Yea.

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

**M 177 06
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 3:00 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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