

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 12, 2002

Call to Order The regular meeting of the Sussex County Council was held Tuesday, March 12, 2002, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 151 02 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to amend the agenda by deleting "3. Ocean View Sanitary Sewer District A. Balancing Change Order" under Michael Izzo, County Engineer; 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. Rogers, Yea;
Mr. Jones, Yea

M 152 02 A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to approve the minutes of February 26, 2002, as distributed.

Motion Adopted: 5 Yea.

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

**Corre-
spondence** Mr. Bayard read the following correspondence:

PENINSULA BLUEGRASS, LAUREL, DELAWARE.
RE: Letter in appreciation of grant.

SUSSEX COUNTY VETERANS COUNCIL, LAUREL, DELAWARE.
RE: Letter in appreciation of grant.

**THOMAS ILVENTO, ASSOCIATE PROFESSOR AND CHAIR, FOOD
AND RESOURCES ECONOMICS, UNIVERSITY OF DELAWARE,
NEWARK, DELAWARE.**

Corre-
spondence
(continued)

RE: Letter of appreciation for Council's sponsorship of the 2002 Governor's Conference on Delaware Agriculture.

RICHARD KING, LINCOLN, DELAWARE.

RE: Letter in appreciation of the help he received from Community Development for restorations to his home.

BOY SCOUTS OF AMERICA, WILMINGTON, DELAWARE.

RE: Letter in appreciation of grant.

DIANE LOEKLE, LEWES, DELAWARE.

RE: Letter expressing appreciation for the tour she received of the Emergency Operations Center.

REHOBOTH ART LEAGUE, INC., REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of grant.

Council members acknowledged the many letters and phone calls that they have received in support of the Georgetown Charter School remaining open.

**M 153 02
Adopt
Proclama-
tion**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt the Proclamation entitled "PROCLAIMING SATURDAY, MARCH 16, 2002 AS A DAY TO HONOR HENRY E. NUTTER, JR."

Motion Adopted: 5 Yea.

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

Mr. Dukes will present the Proclamation to Mr. Nutter at a dinner in his honor on Saturday, March 16, 2002.

**Airport
Lease
Assign-
ments**

Mr. Stickels reported that he is in receipt of a letter from Harvey O. Patrick stating that Sussex County has now been paid all monies due them from The Harvey O. & Vera Patrick Family Foundation, Inc. In the letter, Mr. Patrick requested that the County assign the leases currently in place on the FBO (terminal building) and the maintenance shop to Georgetown Air Services, LLC, a company owned by John Kenney. In the letter, Mr. Patrick noted that The Harvey O. & Vera Patrick Family Foundation, Inc. has sold the assets to John Kenney. Mr. Patrick further requested that the note on the hangar adjacent to the existing FBO be written to Georgetown Air Services, LLC.

Mr. Steve Masten, Acting Director of Economic Development, and John Kenney of Georgetown Air Services, LLC were in attendance. Mr. Masten stated that the assignment of the leases would result in Georgetown Air Services, LLC overseeing all aspects of the airport's activity, i.e. Fixed Base

Airport
Lease
Assign-
ments
(continued)

Operator (FBO), maintenance, and operations. The leases include the old terminal building, the property on which the new hangar is located, and the fuel farm. Mr. Masten advised that the terms of the leases would not change and that the leases do not need to be renegotiated.

It was noted that the initial term of the lease was 15 years beginning May 1, 1998; that the initial lease will expire on May 1, 2113; that there are two renewal options for an additional 10 years; that the original amount of the rent was \$24,000 a year; that the rent has now increased (based on CPI factors) to \$26,300.

M 154 02
Execute
Assign-
ment of
Commercial
Lease/
Patrick
Family
Foundation
& George-
town Air
Services

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the President of the Sussex County Council is authorized to execute an Assignment of Commercial Lease between Harvey & Vera Patrick Family Foundation, Inc. (“Lessee”) and Georgetown Air Services, LLC (“Assignee”) all of Lessee’s rights, title, and interest in and to that certain Commercial Lease by and between Sussex County and Lessee, dated March 11, 1998, as amended on May 24, 1999, for the real property described in the lease, contingent on the approval of the County Administrator and the Finance Director.

Motion Adopted: 5 Yea.

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

Airport
Lease
Assign-
ment

Mr. Stickels presented another assignment of lease from Sussex Aero Maintenance, Inc. to Georgetown Air Services, LLC. Sussex Aero Maintenance, Inc. has the same principals as The Harvey & Vera Patrick Family Foundation. The annual rent for this facility is \$7,500. Mr. Masten advised that the terms of the lease would not change and that the lease does not need to be renegotiated.

M 155 02
Execute
Lease
Assign-
ment/
Sussex
Aero
Main-
tenance
and
Georgetown
Air
Services

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the President of the Sussex County Council be authorized to execute an Assignment of Commercial Lease between Sussex Aero Maintenance, Inc. (“Lessee”) and Georgetown Air Services, LLC (“Assignee”), all of Lessee’s rights, title and interest in and to that certain Commercial Lease by and between Sussex County and Lessee, dated December 1, 1990, as amended on May 24, 1999, for the real property described in the lease, contingent on the approval of the County Administrator and the Finance Director.

Motion Adopted: 5 Yea.

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

**Leases/
New
Airport
Terminal
Building** **Mr. Stickels presented a Lease Agreement with Georgetown Air Services, LLC for the lease of three offices in the new airport terminal building: (1) the FBO area (338 square feet) and the Manager's Office (190 square feet), (2) one office with 375 square feet, and (3) one office with 365 square feet. Each of the three leases will be for a term of five years. The total annual rent for the area to be leased by Georgetown Air Services, LLC will be \$13,020. The rent on the leases will increase annually based on the Consumer Price Index.**

**M 156 02
Execute
Lease
Agreements/
Georgetown
Air
Services** **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the President of the Sussex County Council be authorized to execute three five-year lease agreements with Georgetown Air Services, LLC for the lease of (1) approximately 190 square feet of space (Manager's Office) and 338 square feet of space (FBO area); (2) 375 square feet of space (office); and (3) 365 square feet of space (office), at the new airport terminal building located at the Sussex County Airport, Georgetown, Delaware, contingent on the approval of the County Administrator and the Finance Director.**

Motion Adopted: 5 Yea.

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

**Lease/
New
Airport
Terminal
Building/
Jimmy's
Flying
Grille** **Mr. Stickels and Mr. Masten presented a proposed lease agreement with James Tennefoss, d.b.a. Jimmy's Flying Grille, for the restaurant (1,557 square feet) and kitchen area (360 square feet) in the new terminal building at the Sussex County Airport. Mr. Harold Truxon was in attendance representing James Tennefoss. The lease, which is for a term of five years, can only be assigned with the County Council's approval.**

Mr. Stickels advised that the proposed lease does give the tenant the right to apply for a liquor license for the restaurant. The lease prohibits the tenant to maintain a bar or tavern. The tenant will be responsible to pay for all electrical, gas, and telephone services. The County will provide up to \$60,000 in equipment and furnishings; if the bids exceed \$60,000, the tenant will be required to pay the balance. Mr. Stickels advised that bids on the restaurant's equipment and furnishings would be opened on March 22nd.

Mr. Stickels reported that the insurance section of the lease agreement has been written by the County's insurance consultant. Mr. Baker advised that the lease agreement contains language requiring the tenant to pay for all maintenance, repairs and improvements to the property.

A discussion was held regarding the 555 square foot conference area which adjoins the restaurant and kitchen area. Although the tenant may be interested in the conference area for use as an over-flow seating area or private dining area, it was clarified that the use of the conference area by Jimmy's Flying Grille is not incorporated in the lease agreement proposed

**Lease
(continued)** on this date. It was noted that if Mr. Tennefoss wants to use the conference area, he would be required to enter into a separate lease agreement.

**M 157 02
Execute
Lease
Agreement/
Jimmy's
Flying
Grille** A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the President of the Sussex County Council be authorized to execute a five-year Lease Agreement with James Tennefoss, d.b.a. Jimmy's Flying Grille, to lease 360 square feet of space (kitchen) and 1557 square feet of space (restaurant) at the new airport terminal building located at the Sussex County Airport, Georgetown, Delaware, contingent on the approval of the County Administrator and the Finance Director.

Motion Adopted: 3 Yea, 2 Nay.

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

Mr. Dukes and Mr. Jones voted "Nay" due to concerns over the sale of alcohol in a County-owned facility.

**Lease
Agreements** Mr. Cole requested that copies of lease agreements be provided to Council members prior to them being presented at a Council meeting.

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

1. **Land Use Workshops**

Included with this report is a copy of the next five Land Use Plan Update workshops. I would encourage the residents of Sussex County to attend at least one of these important meetings.

2. **Delaware Department of Transportation Public Workshop**

The Delaware Department of Transportation (DelDOT) will be conducting the first in a series of public workshop meetings for the Statewide Bicycle Transportation Master Plan. The first meeting to be held in Sussex County will be Thursday, March 14, at Milford High School, 1019 North Walnut Street, Milford, Delaware, from 4:00 to 7:00 p.m.

At these workshops, DelDOT would like ideas on how to make Delaware more bicycle-friendly. Where are improvements needed most? What measures would encourage more people to bike? What are the most critical problems for bicyclists in your community? Staff will be on hand to discuss ideas and concerns, and to review the study findings on today's bicycling conditions throughout the State, the potential for increased bicycle use, and the initial visions and goals for the master plan.

Administrator's
Report
(continued)

3. Route 24 Transportation Planning Study

The Delaware Department of Transportation is holding a Public Workshop to present information and solicit public comment regarding transportation planning for Route 24 in Sussex County. The workshop will be held on Thursday, March 21, at the Long Neck Elementary School, R.D. 10, Box 452, School Lane, Millsboro, Delaware. The public is invited to attend any time between 4:00 and 7:00 p.m.

The purpose of the study is to develop and evaluate multi-modal improvements that will address transportation needs. The study is currently in the Transportation Improvement Development Phase, and the results of the public survey of the study's active mailing list will be presented. A menu of transportation improvement solutions will also be presented at the workshop.

4. Route 54 Transportation Planning Study

The Delaware Department of Transportation is holding a Public Workshop to present information and solicit public comment regarding transportation planning on Route 54 in Sussex County. The workshop will be held on Wednesday, March 27, at the Roxana Fire Hall, R.D. 4, Box 77C1, Roxana, Delaware. The public is invited to attend between 4:00 and 7:00 p.m.

The purpose of the study is to develop and evaluate multi-modal improvements that will address transportation needs. This study is currently in the Transportation Improvement Development Phase, and the results of the public survey of the study's active mailing list will be presented. A menu of transportation improvement solutions will also be presented at the workshop.

5. The Medicare Roadshow

Included with this report is a notice from Delaware Health and Social Services regarding a program to educate Delaware Medicare beneficiaries, caregivers, and professionals about the different agencies available to help them make informed decisions regarding Medicare and issues they may encounter. The Sussex County program will be presented Monday, March 25, from 6:00 to 8:00 p.m. at the Georgetown CHEER Community Center, Route 9 and Sand Hill Road, Georgetown, Delaware. Anyone requiring additional information or wishing to register to attend the program should call 1-866-283-6906.

Paramedic
Vehicle

Mr. Luedtke, Director of Emergency Medical Services, and Mr. Shade, Director of Purchasing, reported on the bid results for the retrofitting of emergency lighting, radios, etc. on two (2) staff vehicles, as follows:

Paramedic Vehicle Modifi- cation/ Bid Results (continued)	Ball & Ball Communications	\$7,546.00 (\$3,773.00 /vehicle)
	L & F Mobile Computers	Unacceptable Bid
	Pelican Mobile	No Bid
	CDW Government	No Bid
M 158 02 Accept Bid/ Paramedic Vehicle Modifi- cation	A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council accepts the bid of Ball & Ball Communications in the amount of \$7,546.00 for the retrofitting of emergency lighting, radios, etc. on two staff vehicles.	
	Motion Adopted:	5 Yea.
	Vote by Roll Call:	Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Paramedic Vehicle Modifi- cation/ Bid Results	Mr. Luedtke, Director of Emergency Medical Services, and Mr. Shade, Director of Purchasing, reported on the bid results for the mounting of radio consoles and the associated equipment for thirteen paramedic vehicles, as follows:	
	Pelican Mobile	\$17,281.00
	Ball & Ball Communications	\$19,010.00
	L & F Mobile Computers	\$21,905.34
	CDW Government	No Bid
M 159 02 Accept Bid/ Paramedic Vehicle Modifi- cation	A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council accepts the bid of Pelican Mobile in the amount of \$17,281.00 for the mounting of radio consoles and associated equipment in thirteen paramedic vehicles.	
	Motion Adopted:	5 Yea.
	Vote by Roll Call:	Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Wastewater Facilities	Mr. Green, Director of Utility Construction, discussed wastewater facilities constructed in Canal Corkran.	

M 160 02 **Grant Beneficial Acceptance/ Canal Corkran** A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 210, that the Sussex County Council grant Beneficial Acceptance for the wastewater facilities constructed in Canal Corkran, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: **5 Yea.**

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

Escrow Agreement for Caldera Properties Michael Izzo, County Engineer, presented a Proposed Escrow Agreement for Caldera Properties, a proposal which will impact the regional sewer project for the Cedar Neck Sanitary Sewer District. Mr. Izzo advised that, currently, the design phase of the project is at 95 percent; it is the County Engineering Department's intent to bid out the project in the Summer of 2002. Mr. Izzo advised that he has been contacted by the Developer of the Bethany Lakes Project. Caldera Properties, the Developer, is proposing not to wait until the County constructs the Cedar Neck Sanitary Sewer District and is proposing to build its own central sewer system before construction begins. The Developer proposes to construct a new pump station on the property and to construct a full-size force main to serve the development and hook into the Ocean View Expansion of the Bethany Beach Sanitary Sewer District. The value of these improvements is approximately \$700,000.

Mr. Izzo explained that this proposal would require the County's design firm to redesign the County's system to accommodate the Bethany Lakes Project. Mr. Izzo advised that the County Engineering Department has negotiated the redesign fee with Caldera Properties, as follows: Caldera Properties has presented the County with a check in the amount of \$58,000 which covers the redesign; the money would be put in escrow; and once they have performed the actual construction, the \$58,000 would be returned to them. Mr. Izzo explained that during the course of negotiations the Engineering Department agreed to finance the redesign fee and the developer agreed to construct the improvements and donate the pump station site.

Councilman Cole disagreed with the County refunding the \$58,000 redesign fee. Councilman Cole stated that if the developer wants to move forward early, then they should have to pay for it.

M 161 02 **Execute Escrow Agreement** A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the President of the Sussex County Council be authorized to execute an Escrow Agreement with Caldera Properties to provide for the construction of the regional sewer infrastructure for the Cedar Neck Sanitary Sewer District,

M 161 02 **(continued)** contingent on the cost of the redesign to be paid for by the developer.

Motion Adopted: 5 Yea.

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

Ellendale Sanitary Sewer District Mr. Izzo, County Engineer, presented an agreement with Whitman, Requardt & Associates for Contract Administration and Construction Oversight for the Ellendale Sanitary Sewer District. The contract would be on a time and material basis.

M 162 02 Execute Amendment to Contract with WR&A/ Ellendale SSD A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the County Engineering Department, that the Sussex County Council authorizes its President to execute Amendment No. 14 to its contract with Whitman, Requardt and Associates, LLP, to perform Contract Administration and Construction Oversight for the Ellendale Sanitary Sewer District, for an amount not to exceed \$556,686.00, and contingent upon the approval of the Department of Natural Resources and Environmental Control and/or the Department of Agriculture Rural Utility Service.

Motion Adopted: 5 Yea.

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

Subdivision Ordinance/ Sunsetting Mr. Lank, Director of Planning and Zoning, was asked to join the meeting by Councilmen Dukes for an explanation of Ordinance No. 1133, which amends the Subdivision Ordinance by adding provisions relating to sunsetting of subdivision approval. Mr. Dukes reported that a letter was received from Walt Bryan, representative of the Sussex County Association of Realtors, questioning "why such a decisive ordinance was not publicly advertised approximately a year ago so that people could avail themselves of remedies, or at least amply warned".

Mr. Lank reported that the Proposed Ordinance was introduced on February 18, 1997; the Public Hearing on the Proposed Ordinance was advertised in all the local newspapers in the County; the Public Hearing before the Planning and Zoning Commission was held on March 12, 1997; and the Public Hearing before the Sussex County Council was held on April 29, 1997. There were no public comments in support of or in opposition to the Proposed Ordinance. The Commission recommended the adoption of the Proposed Ordinance with an amendment; the County Council approved the adoption of the Ordinance with additional amendments. The approval of the Ordinance was advertised in all of the local newspapers in the County.

**Subdivision
Ordinance/
Sunsetting
(continued)**

Mr. Lank stated that the Ordinance basically provides that subdivisions shall sunset after five years of the date of the adoption of the Ordinance (April 29, 1997) or within five years of the date of recordation of the final plat, if substantial construction has not commenced. Mr. Lank noted that the content of the Ordinance clarifies the definition of “substantial construction”.

Mr. Lank reported that in January, he completed an inventory resulting in a list of approximately 30 subdivisions which may be sunsetting and that notices are going out.

**Cedar
Landing/
Suburban
Community
Improvement
Project**

Mr. McCabe, Director of Public Works, presented bid results for Cedar Landing Suburban Community Improvements Project, as follows:

A. P. Croll and Son, Inc.	\$176,876.62
Ralph Cahall & Son, Inc.	\$210,714.00
Del-Mar-Va Paving Company, Inc.	\$229,517.00
P&A Company, Inc.	\$239,493.00
Jerry's Paving, Inc.	\$239,914.00
Tilcon Delaware, Inc.	\$324,753.44
 Engineer's Construction Cost Estimate	 \$219,520.00
 Project Budget Construction Cost	 \$241,472.00

Mr. McCabe advised that this is the first Suburban Community Improvement Project that has requested and followed through with a change from private streets to State streets. An existing subdivision with paved streets is being converted from privately maintained roads to State maintained roads, which requires upgrades to State standards.

**M 163 02
Award
Bid/
Cedar
Landing
Suburban
Community
Improvement
Project**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 99-17, titled “Cedar Landing Suburban Community Improvement Project” be awarded to the lowest responsible bidder, A. P. Croll & Son, Inc. of Georgetown, Delaware, at the bid amount of \$176,876.62.

Motion Adopted: 5 Yea.

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

**Milton
Library
Expansion
Project**

Mr. Hawkes, Director of Utility Engineering, updated the Council on the progress of the Milton Library Expansion Project and requested additional funds for the architect to proceed with the design. The additional funds for additional design work are due to the following: (1) the building is located in a historic area of the Town; (2) the Town is requesting adequate parking

Milton Library Expansion Project (continued)	<p>near the library and handicapped accessibility to the building; (3) the building site is adjacent to the Broadkill River and potential flooding problems exist; (4) the new building will have new electrical demands; (5) reorienting the Governors Walk; and (6) additional structural work is needed as a result of reorienting the building on the site to accommodate parking and setbacks.</p> <p>Mr. Hawkes reported that the existing design budget has been exhausted and an increase in the design budget is proposed in the amount of \$16,900.00, increasing the total design budget to \$171,350.00.</p>
M 164 02 Approve Amendment to Contract/ Design for the Milton Public Library Expansion	<p>A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department and contingent upon the approval of the Assistant County Attorney, the Sussex County Council approves Amendment No. 2 to the contract with Weymouth Architects and Planners for Sussex County Project No. 00-02 entitled "Design for the Milton Public Library Expansion", thereby increasing the contract amount from \$154,450.00 to \$171,350.00.</p> <p>Motion Adopted: 5 Yea.</p>
	<p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
North Millville Expansion Area/ Annexation Proposal	<p>Mr. Archut, Assistant County Engineer, advised that requests from property owners have been received for the extension of the Ocean View Expansion Area to include the Route 26 and Woodcrest areas in Millville. The two areas can be annexed into the sewer district because pipelines were installed as part of the Ocean View Project. Property owners in these two areas can connect into the sewer district once the areas have been annexed.</p>
M 165 02 Prepare and Post Notices/ North Millville Expansion Area/ Annexation Proposal	<p>A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Ocean View Expansion Area to include properties along Route 26 and in Woodcrest.</p> <p>Motion Adopted: 5 Yea.</p>
	<p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Amendment to Contract (Delta)	<p>Mr. Sapp, Project Engineer, presented Amendment No. 9 to the Contract with Delta Airport Consultants, Inc. The scope of work to be covered by Amendment No. 9 is as follows:</p>

**Amendment
to Contract/
Delta
Airport
Consultants**

Task 6 – Five Year Environmental Assessment Supplemental Work

This task allows for supplemental work that was primarily mandated by the Delaware State Historic Preservation Office to include providing additional subcontracted cultural resource and archaeological surveys; providing additional subcontracted wetlands surveys; and incorporating new access road project into Five Year Environmental Assessment submittal.

Task 7 – Master Plan Update

This task is a result of the Runway 4-22 Extension Environmental Assessment and will include conducting an Airport Master Plan Update; preparing airport layout; preparing Airport Layout Plan (ALP); completing runway justification analysis; preparing airport property map; and providing subcontracted property and aerial surveys

Task 8 – Runway 4-22 Extension Environmental Assessment

This task will include conducting an environmental assessment for the extension of Runway 4-22; and providing subcontracted wetland, cultural resources, air quality, and endangered and threatened species surveys.

Mr. Sapp reported on the cost estimates for the three tasks:

Task 6	\$121,113.00
Task 7	\$188,456.00
Task 8	\$216,813.00

Mr. Sapp advised that the projects will be funded with 90% Federal funding, 5% State funding, and 5% County funding.

**M 166 02
Approve
Amendment
to Delta
Airport
Consultants
Contract**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 9 to the Agreement for Professional Services between Sussex County, Delaware, and Delta Airport Consultants, for Task 6 (Five Year Environmental Assessment Supplemental Work), Task 7 (Master Plan Update), and Task 8 (Runway 4-22 Extension Environmental Assessment), pending FAA approval.

Motion Adopted: 5 Yea.

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

**Request
to Grant
Substantial
Completion**

Mr. Sapp, Project Engineer, reported that the airport generator installation has been completed. The original contract price was \$37,499.00; on September 25, 2001, the County Council approved a Change Order in the amount of \$24,964.00, bringing the total contract price to \$62,463.00. Mr.

**Request
(continued)** **Sapp requested permission to grant substantial completion based on the fact that all the final tests have been successfully run on the generator and all the County training has been conducted. Mr. Sapp advised that there is no balancing change order.**

**M 167 02
Grant
Substantial
Completion/
Airport
Generator
Installation** **A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council grants Substantial Completion to John W. Tieder, Inc. for Sussex County Project No. 01-07, Airport Generator Installation, effective March 12, 2002, and all held retainage shall be released pending the Sussex County Engineering Department's approval and FAA's final approval.**

Motion Adopted: **5 Yea.**

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

**Pump
Station 100
Upgrade
and Force
Main/
Easement
Occupancy
Agreement
and
Temporary
Construction
Easement** **Mr. Stewart, Project Engineer, reported on Sussex County Project No. 01-05, Pump Station 100 Upgrade and Force Main in the Ocean View area, which was awarded to David A. Bramble, Inc. Mr. Stewart advised that a Notice to Proceed will be issued for that work in a few weeks. Under the contract, a new 14 inch force main will be constructed from an existing pumping station (No. 100) to the South Coastal Regional Wastewater Facility. That force main will parallel and cross a 150 foot wide power line right-of-way, which is owned by Delmarva Power & Light Co. The right-of-way was acquired by Delmarva Power & Light Co. in 1958 and it crosses through the middle of lands which are now owned and occupied by the County. Mr. Stewart explained that since the County must parallel and cross that right-of-way for purposes of construction, operation, and maintenance of the force main, it is necessary to obtain an agreement from DP&L to occupy their right-of-way in order to obtain land for a Temporary Construction Easement. The Engineering Department is recommending approval of the Easement Occupancy Agreement and Temporary Construction Easement which have been negotiated with DP&L.**

**M 168 02
Execute
Easement
Occupancy
Agreement
and
Temporary
Construction
Easement/
Pump
Station 100** **A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that for Sussex County Project No. 01-05, Pump Station 100 Upgrade and Force Main, the Sussex County Council authorizes the execution of an Easement Occupancy Agreement and a Temporary Construction Easement Agreement between Sussex County and Delmarva Power and Light Company, Inc., to permit the County to construct, operate, and maintain a 14 inch diameter force main parallel to and crossing the Delmarva Power and Light Company's existing 150-foot wide power line right-of-way on County lands.**

Motion Adopted: **5 Yea.**

M 168 02 (continued)	Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 169 02 Defer Action	A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on grant requests until 1:30 p.m. Motion Adopted by Voice Vote.
M 170 02 Recess	At 12:30 p.m., a Motion was made by Mr. Cole, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.
Reconvene	Mr. Jones called Council back into session at 1:30 p.m.
Public Hearing (C/U No. 1440)	A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (3 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,888 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1440) filed on behalf of Carol Emmert.

The Planning and Zoning Commission held a Public Hearing on this application on February 14, 2002 at which time the Commission recommended that the application be approved with the following stipulations:

- 1. The maximum number of units shall not exceed three (3).**
- 2. The northerly and southerly side property lines shall be landscaped.**
- 3. The entrance/exit shall be located on Pine Lane, not Lake Drive.**
- 4. If a stormwater management pond is located along Lake Drive, there shall be a guardrail installed between the pond and Lake Drive.**
- 5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.**

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that Carol Emmert, property owner, and James Fuqua, Attorney, were present on behalf of the application. Mr. Fuqua stated that the applicant is agreeable to the stipulations proposed by the Commission, with the exception of Stipulation No. 4 since stormwater ponds are not very deep and since, on the other side of the road, there is a very large lake with no guardrail around it. For these reasons, Mr. Fuqua stated his opinion that a guardrail should not be required around the stormwater pond.

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

**M 171 02
Adopt
Ordinance
No. 1524
(C/U
No. 1440)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1524 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (3 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,888 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1440) filed on behalf of Carol Emmert, with the following stipulations:

1. The maximum number of units shall not exceed three (3).
2. The northerly and southerly side property lines shall be landscaped.
3. The entrance/exit shall be located on Pine Lane, not Lake Drive.
4. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Abstention.

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

Findings of Fact

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan; is within a Development District; is consistent with the type and character of the residential development in the immediate area; and as a result, will have no adverse impact of any sort on property values, traffic or the environment.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

**M 172 02
Defer
Action**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to defer action on the grant requests until the March 26, 2002 Council meeting. Motion Adopted by Voice Vote.

**Public
Hearing
(C/U
No. 1441)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (8 SINGLE FAMILY DETACHED UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND

Public
Hearing
(C/U
No. 1441)
(continued)

BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.98 ACRES, MORE OR LESS" (Conditional Use No. 1441) filed on behalf of Curtis Ricketts.

The Planning and Zoning Commission held a Public Hearing on this application on February 14, 2002 at which time the Commission recommended that the application be approved with five stipulations.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that Curtis Ricketts, applicant; James Fuqua, Attorney; and Tom Ford of Land Design, were present on behalf of the application. The information presented was the same information included in the record of the Planning and Zoning Commission.

It was noted that correspondence was received from W. Roger Truitt, dated February 11, 2002, asking that "given the proximity of the subject parcel for the golf facility, a 50-foot buffer is the minimum building setback that should be approved for the subject conditional use", and that "a six-foot high stockade-type fence should be required for purposes of safety and to prevent inadvertent ingress onto our property".

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

M 173 02
Adopt
Ordinance
No. 1525
(C/U
No. 1441)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1525 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (8 SINGLE FAMILY DETACHED UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.98 ACRES, MORE OR LESS" (Conditional Use No. 1441) filed on behalf of Curtis Ricketts, with the following conditions:

1. The maximum number of single-family detached dwelling units shall not exceed eight (8) units.
2. A 6-foot high stockade type fence shall be erected along the west property line from the pool to the north west corner.
3. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Abstention.

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

**Findings
of Fact**

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

- 1. The Applicant established by substantial evidence that the proposed use will serve a growing demand for additional housing in the area without negative impacts on the neighboring communities and roadways.**
- 2. The site was previously approved as a conditional use for 8 townhouse dwelling units in 1998. The proposed request is for 8 single family condominium dwelling units.**
- 3. The site is served by County sewer and central water and will have access to County Road 273 which accesses Route 1 at a controlled signaled intersection.**
- 4. The site is located in a highly developed area with commercial activities located to the east of the site including a service station and hotel. The park and ride lot is located to the south of the site and residential uses are located to the north and west of the site. The proposed density is consistent with densities located in the area.**
- 5. The site is located in close proximity to nearby shopping and service areas and will provide on site recreational amenities.**
- 6. The site will generate minimal traffic impact in that it is limited to 8 units.**
- 7. The proposed conditional use is consistent with the Sussex County Land Use Plan and that it is located in a designated Development District where central water and sewer are available; there are no negative environmental impacts; it is located near commercial development and will serve as a buffer between commercial development and nearby lower density residential development, it is not in an Agricultural Zone or Conservation Zone; the density is consistent with the Land Use Plan; the development is appropriate and in conformity with the Land Use Map.**

**Public
Hearing
(C/U
No. 1443)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO CONDITIONAL USE NO. 1370 BY ADDING RETAIL SALES OF PLAY SETS AND YARD FURNITURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 39.81 ACRES, MORE OR LESS (Conditional Use No. 1443) filed on behalf of The Barn Yard.

The Planning and Zoning Commission held a Public Hearing on this application on February 14, 2002 at which time the Commission

**Public
Hearing
(C/U
No. 1443)
(continued)**

recommended that the application be approved with stipulations.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that Jay Beach was present on behalf of his application. Mr. Beach stated that he is requesting permission to sell yard furniture and play sets. Mr. Beach also asked that the stipulation be lifted requiring that the existing wetlands remain undisturbed since the stipulation restricts him from clearing out some of the lower trees and brush. Mr. Beach stated that he wishes to clean out the wetlands to make his produce stand more visible from the west side of Route 24.

It was noted that the request to lift the wetlands stipulation was not included in the title of the Ordinance; however, the request was included in the application.

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

**M 174 02
Adopt
Ordinance
No. 1526
(C/U
No. 1443)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1526 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO CONDITIONAL USE NO. 1370 BY ADDING RETAIL SALES OF PLAY SETS AND YARD FURNITURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 39.81 ACRES, MORE OR LESS (Conditional Use No. 1443) filed on behalf of The Barn Yard, with the following stipulations:

- 1. The driveway to the corn maze parking area shall be designated on the site plan.**
- 2. Condition No. 2 attached to Conditional Use No. 1370 is hereby modified to permit the applicant to remove scrub trees and holly trees to a depth of 300' north from Route 24 to improve eastbound traffic visibility for the site on Route 24.**
- 3. The site plan shall be subject to review and approval by the Planning and Zoning Commission and shall depict the location of the displays of furniture, play sets, and sheds.**

Motion Adopted: 5 Yea.

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

**Findings
of Fact**

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

- 1. The findings of fact, recommendations, and record of Conditional Use No. 1370 are incorporated herein.**
- 2. The applicant's request is the result of his growing business on site and will have no adverse impact whatsoever.**

**Public
Hearing
(C/Z
No. 1459)**

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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 12.1637 ACRES, MORE OR LESS" (Change of Zone No. 1459) filed on behalf of David Brown.

The Planning and Zoning Commission held a Public Hearing on this application on February 14, 2002 at which time the Commission recommended that the application be approved.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that David Brown was present on behalf of his application. Mr. Brown stated that he wishes to relocate his irrigation business to this site so that he can expand the business.

The information presented was the same information included in the record of the Planning and Zoning Commission.

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

**M 175 02
Adopt
Ordinance
No. 1527
(C/Z
No. 1459)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1527 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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 12.1637 ACRES, MORE OR LESS" (Change of Zone No. 1459) filed on behalf of David Brown.

Motion Adopted: 5 Yea.

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

**Findings
of Fact**

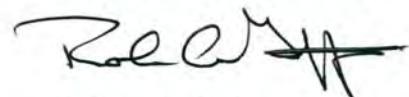
The Council found that the change of zone was appropriate legislative action based on the following findings of fact:

- 1. The applicant established by substantial evidence that the change of zone is consistent with the Comprehensive Land Use Plan, is located in a commercially developing area and will have no adverse impact of any sort.**
- 2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.**

**M 176 02
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to adjourn at 2:53 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



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