

***SUSSEX COUNTY COUNCIL, GEORGETOWN, DELAWARE – MAR. 27, 2007***

**Call to  
Order**

The regular meeting of the Sussex County Council was held Tuesday, March 27, 2007, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Dale R. Dukes</b>	<b>President</b>
<b>Finley B. Jones, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Member</b>
<b>Lynn J. Rogers</b>	<b>Member</b>
<b>Vance C. Phillips</b>	<b>Member</b>
<b>David B. Baker</b>	<b>County Administrator</b>
<b>Susan M. Webb, CPA</b>	<b>Finance Director</b>
<b>James D. Griffin</b>	<b>County Attorney</b>

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

**M 183 07  
Amend and  
Approve  
Agenda**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda, by deleting two items:

1. "Approval of Minutes"; and
2. Item No. 1 under Glenn Luedtke, Director of EMS, "Lease Agreement – Paramedic Station 104";

and to approve the Agenda, as amended;

**Motion Adopted: 5 Yea.**

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

**Corre-  
spondence**

Mr. Griffin read the following correspondence:

**WEST SIDE NEW BEGINNINGS, INC. COMMUNITY CENTER,  
REHOBOTH BEACH, DE**

**RE: Letter of thanks for Council's recent grant.**

**KEITH A. JOHNSON, GEORGETOWN, DE**

**RE: Comments regarding DelDOT's proposed bypass alternatives in the  
Georgetown-Millsboro area.**

**KERRY D. KINARD, EXECUTIVE DIRECTOR, BAY BALL CLASSIC  
INVITATIONAL, MILFORD, DE**

**RE: Letter of thanks for Council's financial contribution for the 2006 Bay  
Ball Classic Invitational.**

**U. S. 113  
North/South  
Study –  
Lincoln  
Bypass/  
DelDOT  
Update**

Mr. Baker introduced Monroe Hite, III, P.E., Project Manager with the Delaware Department of Transportation. During last week's Council meeting, Mr. Sonny Vuono, a Lincoln resident, requested that Council support the residents of Lincoln by passing a resolution opposing DelDOT's proposed plan for a bypass through Lincoln. Mr. Hite was invited to update Council regarding the U.S. 113 North/South Study.

Mr. Hite presented Council with an extensive packet of information that included the display boards from recent workshops and, in particular, the 7 alternatives "retained for detailed study" for the Milford area. These 7 alternatives include two western (blue and orange), one on-alignment (yellow), three eastern (green, purple and brown), as well as a "No Build" alternative. Two workshops were held in the Milford/Lincoln area during February. Approximately 400 people attended those workshops and feedback was received on the proposed alternatives. The environmental agencies prefer the eastern alternatives and of those, they prefer green or purple - over brown - due to environmental concerns; the public, however, strongly supports brown. After Secretary Wicks' recent appearance before the Bond Bill Committee, the Project Team was directed to work further with the environmental agencies to determine what, if anything, could be done to lessen the environmental impact of the brown alternative. The Project Team will be reporting to the Milford Working Group on April 11, which will be their last meeting before the April 13<sup>th</sup> public comment deadline. Input has been received from the working groups, the public, and environmental agencies. DelDOT is hoping to make a draft of the Environmental Impact Statement available in May, with public hearings on the preferred alternatives to be held in June.

Workshops within the Georgetown Study Area were held in March and opposition was received for the 2 new alternatives that would combine the east bypass around Georgetown with the east bypass around Millsboro; further consideration of those is not expected. After the last round of workshops, it was determined that the "On-Alignment" alternative was preferred, as well as modifications to lessen the impact for property owners along the existing 113 corridor.

Mr. William Fox, of Lincoln, presented Council with a 7-page document entitled, "The Greentop Civic Association in Lincoln, DE is resolved to oppose DelDOT's Plan to Divide Lincoln with a US 113 Bypass, March 12, 2007". He stated that the "concerned citizens of Lincoln" have met with all levels of government, including John Hughes and Connie Holland. Mr. Fox mentioned that a poll was taken for the 7 proposed alternatives and 56 percent – of the 230 polled – were in favor of the brown alternative. For those not in favor of brown, the majority were against green or purple because of the division that would occur within the town with those selections. Mr. Fox requested Council's support by issuing a public statement that would read:

*"We, the elected representatives of the Sussex County Council,  
responsible for governing the unincorporated town of Lincoln*

(Con't.)

*(established in 1865) are resolved that DelDOT should not bulldoze an elevated (30 feet above the railroad tracks) "Milford Bypass" through the middle of Lincoln's homes, schools, and churches."*

Mr. Keith Johnson, of the Georgetown/Millsboro area, stated that he was representing approximately 1,100 Georgetown/Millsboro residents who signed a recent petition opposing the 2 new alternatives for the Georgetown area. A grass roots information meeting – attended by approximately 400 persons – was held on March 8. He expressed concern that the latest DelDOT proposals, which came out in February, were unexpected and not in agreement with the Georgetown Working Group. He noted concern that the proposals would hinder police, paramedics, fire personnel, and school buses by the closing of roads, as well as land becoming landlocked. Mr. Johnson requested Council's support for the on-alignment alternative.

Mr. Hite reported that DelDOT has strived to work with many groups and individuals, both in informing the public and receiving comments. In working with the Greentop Association (Lincoln), he expressed concern that not all of the statements within Mr. Fox's report may be accurate as some individuals of the group do favor the green or purple alternatives. Individuals affected by the two new alternatives proposed for Georgetown were sent letters of notification. After the preferred alternatives have been determined, the bypass design will continue and the process for right-of-way acquisitions will begin as money becomes available. At the present time, money for those acquisitions will not be available until FY '09, or July 2008.

Council expressed concern regarding consultant costs, public trust issues, and the negative impact on property values when property acquisitions begin. It was also noted that the County has included the "North-South Limited Access Highway" in its past "Capital Transportation Improvement Program Request" submitted to DelDot. Mr. Hite noted that DelDOT is taking great effort to follow the proper process in this study to ensure utilization of Federal funds, as well as the department's attempts to reestablish a good working relationship with the public.

It was the consensus of the Council to take Mr. Fox's request under advisement, with possible action within the next few weeks.

Airport  
Hangar  
Renovation  
Proposal

Mr. Baker reported that at the March 13<sup>th</sup> Council meeting, the County approved the purchase of a hangar at the County Airport to house the new Airframe Mechanics Training Program of the Delaware Technical & Community College (DTCC). Representatives from the college, as well as PATS Aircraft, came before Council on October 24, 2006 to seek the County's partnership in the establishment of this program. Mr. Baker stated that the next step in this process is hangar renovation.

Mr. Baker introduced Cheryl Parker, Human Resource Director for PATS, as well as Dr. Ileana Smith, Vice President and Campus Director, and Stephanie

(Con't.)      **Smith, Dean of Instruction, of DTCC.**

**Ms. Parker reiterated PATS support for this program. Of their 160 job openings, 100 support their hangar and, more specifically, are mechanics (interior, structures, and line maintenance) and avionics technicians. Of those mechanics, approximately 70 are required to have the airframe license. Ms. Parker explained that of their present staff, 410 are direct employees, but they are also utilizing a contracted workforce of approximately 100 due to an insufficient trained local staff base.**

**Dr. Smith noted the attendance of additional college personnel: Lynn Faucett, Director of Administrative Services, and Bob Hearn, Business Manager. She acknowledged both the County's and the College's significant investment in their partnership to make this program a reality. With Council's approval of funding for the hangar renovations, the college is ready to move forward with the extensive equipment acquisition, the hiring of faculty, curriculum development, and with the application required for FAA certification.**

**Ms. Smith distributed copies of a 7-page handout that was used as the basis of her presentation. The booklet states the progress-to-date, as well as the tasks and steps ahead. FAA has strict requirements that have to be met and in place before they grant certification. These requirements include the hangar renovations, the creation of an educational lab, curriculum development, student competencies, resource library, faculty qualifications, etc. The Owens Campus has committed a department chairperson position to lead the program, as well as teach. The college will incur approximately \$500,000 in equipment and curriculum costs. If the Board of Trustees give their approval at their April 3<sup>rd</sup> meeting, the posting for the department chair position will take place immediately, with hiring to occur between May and June. With Council's funding approval and with the expiration of the current tenant's lease, it is hoped that hangar renovations can begin in August and be concluded by November. If this timeline is followed, program implementation is expected in April 2008, with the first students to graduate in December 2009. If there is a delay, program startup would begin in the fall of 2008 and graduation would occur in the spring of 2010.**

**A high school recruitment plan will be implemented. Students entering the program would not need specialized coursework, but do need to be at college level in reading, writing and math. With county residents making up 90 percent of the college's student body, it is expected that Sussex Countians would benefit the most from the employment opportunities offered by the Airframe Training Program. Student capacity would be 24 for the first year and, afterwards, another faculty position would allow a total of 48 students. PATS has an estimated need to hire 20 graduates each year for the foreseeable future. Starting salary projections are \$15.75 to \$16.50 per hr.**

**The Council was provided with a Cost Estimate for interior renovations of the aviation hangar, as prepared by AWB Engineers, an engineering firm**

(Con't.) consulted by the College. The report notes probable costs to exceed \$480,000.

Items discussed by Council included costs vs. revenues generated, the architect's proposed estimates, and negotiation of the hangar lease. The County intends to closely review the preliminary plans before the project is bid and are currently under review by county staff. Mr. Dukes requested that he be part of any committee that reviews the specifications and costs for hangar renovations. Although a revenue stream is not associated with the program, the benefit to the County will not only be in supporting a company vital to the economy of the Sussex, but also in the high tech jobs afforded county residents. PATS presently employs 400 employees, but plans to expand to 700. There has been no negotiation of the lease at this point, but it is expected to be at a minimal rate. The college would also be responsible for utility and general maintenance costs. The County's responsibility would include hangar renovations, as well as bidding of the project.

Dr. Smith reiterated that the County's commitment to provide hangar renovations is a critical step for the College's Board of Trustees who will be voting on the program next week. The college cannot move forward without the County's partnership and funding.

**M 184 07  
Approve  
Airport  
Hangar  
Renovations**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council approves the renovation of the block hangar at the County Airport to be leased to Delaware Technical & Community College to be used for an Airframe Mechanics Training Program subject to approval of the proposed training program by the College's Board of Directors.

**Motion Adopted: 5 Yea.**

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

**Adminis-  
trator's  
Report**

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

**1. D. Lynne Haines – President, Delaware Library Association**

We are pleased to announce that D. Lynne Haines, Assistant County Librarian, will become the next President of the Delaware Library Association on May 8, 2007, at the annual conference. The conference in Dover on May 8 will cover subjects regarding library security, technology, and current library trends. Ms. Haines has worked for the Sussex County Council in the Library Department since April 1, 2005.

**2. Retirements – Stephen T. Masten, Sr., and Diana M. Pettyjohn**

Stephen T. Masten, Sr., Director of Economic Development, and

(Con't.)

Diana M. Pettyjohn, Development Planner, each announced their retirement effective March 30, 2007. During the last 30 years Steve has also served as Fiscal Officer and Acting Director of the CETA Program, and Acting Director of the Sussex Job Exchange Program. Since November 15, 1976, Diana Pettyjohn has served the County as Cashier in the Treasury Division and in her current position as Development Planner in the Economic Development Office.

The County wishes both Steve and Diana the best of luck in the future and thanks them for their combined 60 years of public service to Sussex County residents.

**3. James A. Hickin – Director of Airport and Industrial Park Operations**

We are pleased to announce the appointment of Mr. James Hickin as Director of Airport and Industrial Park Operations. Mr. Hickin will oversee the management of the Sussex County Airport and Industrial Park. His work will include planning and development infrastructure, overseeing the overall operations and security at the Airport and Industrial Park, obtaining funding for Airport projects, as well as working with Airport and Industrial Park clients and businesses.

Mr. Hickin has a Bachelor's Degree in Aerospace Engineering, as well as a Master's Degree in Aeronautical Science. He worked 19 years for the United States Air Force as a pilot, and also worked as an airline pilot for four years.

The County wishes to congratulate Mr. Hickin and looks forward to working with him in the future.

Council members recognized Diana Pettyjohn and Steve Masten who were in attendance and thanked them for their many years of faithful service to the County. Mr. Hickin, who was also present, was congratulated by Council on his new position.

South  
Ocean  
View  
SSD/  
Change  
Order  
No. 1

Mr. Hawkes, Director of Utility Engineering, presented Change Order No. 1 of the South Ocean View Sanitary Sewer District Project. He reported that Council had entered into a contract with Edward McGinn General Contractors for the construction of the sewer system and that project completion is expected to occur ahead of schedule. For Council's consideration is a change order to replace various areas of stormwater drainage pipe as contained in the original contract. It is now being recommended that heavier gauged pipe be utilized. The expense involves the cost difference of materials only.

M 185 07  
Approve  
Change  
Order No. 1/

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that based upon the recommendation of the County's consulting engineer, Whitman, Requardt and Associates, LLP, and the Sussex County Engineering Department, that Change Order No. 1 for Sussex County Contract No. 06-02, South Ocean View Sanitary

**South Ocean View SSD**      **Sewer District with Edward McGinn General Contractors, Inc., be approved in the amount of \$2,657.04, which increases the contract total from \$4,196,315.00 to \$4,198,972.04, contingent upon the approval of the State of Delaware Water Pollution Control Revolving Fund.**

**Motion Adopted:      5 Yea.**

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

**Dagsboro/  
Frankford  
Sanitary  
Sewer  
Expansion**      **Mr. Ashman, Director of Utility Planning, presented a proposal for the Vines Creek Village extension to the Dagsboro-Frankford Sanitary Sewer District boundary. Mr. Ashman is seeking Council's permission to prepare and post notices for this extension, comprising of 22.97± acres, located in Vines Creek Village and to include 50 single-family lots. Mr. Ashman reviewed the map of the proposed annexation area.**

**M 186 07  
Post Notices/  
Vines Creek  
Village**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Dagsboro-Frankford Sanitary Sewer District Boundary to include the balance of the parcel owned by the Catholic Diocese Foundation to be known as Vines Creek Village and certain properties located on both sides of Stone Road, as presented on March 27, 2007.**

**Motion Adopted:      5 Yea.**

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

**Old  
Business  
(C/U No.  
1666)  
Wilkinson  
Properties,  
LLC**      **The County Council discussed the Proposed Ordinance entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 28.18 ACRES, MORE OR LESS" (C/U No. 1666) filed on behalf of Wilkinson Properties, LLC.**

**The Planning and Zoning Commission held a Public Hearing on this application on August 10, 2006, at which time action was deferred. The Commission discussed this application again on September 14, 2006 under Old Business, at which time they recommended that the application be denied based on the 5 reasons contained in the Commission's record.**

**The County Council held a Public Hearing on this application on August 22, 2006, at which time action was deferred.**

(Con't.)

Mr. Lank reported that he had forwarded to Council suggested findings and conditions in reference to this application. Mr. Lank read the 8 findings and 17 conditions into the record. Mr. Rogers noted and reviewed 4 additional findings that he would like included due to traffic concerns on Route 9. Council discussed Mr. Rogers' suggested revisions.

**M 187 07  
Adopt Ord.  
No. 1892  
(C/Z No.  
1666)  
Wilkinson  
Properties**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1892 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 28.18 ACRES, MORE OR LESS" (C/U No. 1666) filed on behalf of Wilkinson Properties, LLC, subject to 17 conditions and the amendment to add a "2.a." and "2.b.":

1. The maximum number of multi-family residential units shall not exceed 96.
2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicants or their successors/assigns in accordance with DelDOT's determinations. The location of the entrance shall be subject to the approval of DelDOT, whether on Route 9 or Road 258.
  - a. At a minimum, before any site work can begin, a bond provided by the applicant/developer shall be remitted to DelDOT sufficient to pay for an Engineering Study (either by DelDOT or a private firm, acceptable to DelDOT) along with any improvements identified by the Engineering Study, such as overhead lighting, turning lanes, flashing overhead warning lights, intersection realignment or a traffic signal for the intersection of Route 9 with Fisher and Hudson Road.
  - b. Prior to the issuance of the First Residential Building Permit, the improvements to the satisfaction of DelDOT to improve the safety of the intersection of Rt. 9 with Hudson Road and Fisher Road shall be in place and operating as identified by the Engineering Study.
3. Recreational amenities, i.e. community building with swimming pool, sports multi-purpose court and walking/jogging/biking trails, shall be constructed and open to use by the residents of the project within 2 years of the issuance of the first residential building permit.
4. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
5. The development shall be served by a public central wastewater



**M 187 07  
(Con't.)**

- treatment and disposal system and shall be designed in accordance with Sussex County Engineering specifications and shall be subject to the review and approval of the Sussex County Engineering Department and DNREC.
6. The interior street design shall include sidewalks and streetlights.
  7. The applicant shall submit as a part of the site plan review a landscape plan showing the proposed landscape design.
  8. A 50-foot wide forested buffer shall be maintained around the complete perimeter of the site where woods presently exist. The buffer shall connect to the existing hedgerow/tree line depicted on the site plan. Tree species that are native to the area will be utilized in areas that are not forested to create said buffer.
  9. All residential units will be located to the north of the existing hedgerow/tree line. The area between Route 9 and the existing hedgerow/tree line will remain in open space. The access road to the site may be included within said open space.
  10. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 pm., Monday through Saturday.
  11. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
  12. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
  13. The applicant, its successors/assigns, including a homeowners or condominium association that will be formed, shall operate the stormwater management facilities in a manner that is consistent with Best Management Practices.
  14. The applicant, its successors/assigns shall form a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
  15. The design and location of residential buildings shall meet or exceed the minimum requirements of the Zoning Ordinance.
  16. A school bus stop with parking shall be provided. The location and character of the school bus stop shall be coordinated with the local

(Con't.)                      school district's transportation coordinator. The location of the school bus stop shall be shown on the Final Site Plan.

17.     The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted:     3 Yea; 2 Nay.

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

Old Business     The County Council discussed the Proposed Ordinance entitled, "AN  
(C/Z No.     ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF  
1609)     SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL  
Oak Creek     DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-  
                         RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF  
                         LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED,  
                         SUSSEX COUNTY, CONTAINING 115.29 ACRES, MORE OR LESS" (C/Z  
                         No. 1609) filed on behalf of Oak Creek, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on February 22, 2007, at which time action was deferred to allow further consideration of the application. The Commission discussed this application again on March 15, 2007 under Old Business, at which time they recommended that the application be approved based on the 7 reasons and 2 conditions (12 including the 10 conditions set forth in subdivision 2003-28) stated and contained in the Commission's record.

The County Council held a Public Hearing on March 13, 2007, at which time action was deferred.

M 188 07     A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt  
Adopt Ord.     Ordinance No. 1893 entitled, "AN ORDINANCE TO AMEND THE  
No. 1893     COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR  
(C/Z No.     MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM  
1609)     DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED  
Oak Creek     COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING  
                         IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,  
                         CONTAINING 115.29 ACRES, MORE OR LESS" (C/Z No. 1609) filed on  
                         behalf of Oak Creek, LLC, subject to the following 12 conditions:

1.     There shall be no more than 226 lots within the subdivision.
2.     The applicant shall cause to be formed a Homeowners Association to be responsible for the maintenance of streets, roads, any buffers, stormwater management facilities, and other common areas.

**M 188 07  
(Con't.)**

3. The stormwater management system shall meet or exceed the requirements of the State and County.
4. All entrances shall comply with all of DelDOT's requirements.
5. A system of streetlighting shall be provided by the Applicant, and the location of the streetlights shall be shown on the final site plan.
6. Sidewalks shall be installed on both sides of all streets within the subdivision.
7. The applicant shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.
8. No wetlands shall be included within any lot lines.
9. Within one (1) year of the issuance of the first building permit, the Developer shall construct a community swimming pool and community center.
10. The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
11. Minimum setbacks shall be front: 15 feet; side 5 feet; rear 10 feet. However, at all corner lots, there shall be a 15-foot setback from all road frontages.
12. A proposed bridge connecting the development to Kings Creek Country Club shall be subject to approval of the appropriate Kings Creek entity and the approval of DNREC and any other applicable agency and shall be for pedestrian and golf cart use only. All other types of motorized vehicles shall be prohibited.

**Motion Adopted: 5 Yea.**

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

**M 189 07  
Amend  
Agenda/  
MOTION  
DIED**

**A Motion was made by Mr. Cole, seconded by Rogers, to amend the agenda to delay action on grant requests until the beginning of the afternoon Council session.**

**Motion Died: 3 Nay; 2 Yea.**

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

(Con't.)

**Mr. Dukes, Nay**

**M 190 07**      **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$5,000 from Mr. Phillips' Community Improvement Grant to the Town of Fenwick Island to be used for beach patrol expenses.**

**Community Improvement Grant/Town of Fenwick Island**

**Motion Adopted:    5 Yea.**

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

**M 191 07**      **A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$250.00 from Mr. Phillips' Youth Activity Account to Families Connected, Inc. to be used to offset the costs for co-hosting an Easter Egg Hunt (with the Greater Millsboro Chamber of Commerce) and their Summer Youth Enrichment Program.**

**Youth Activity Grant/Families Connected**

**Motion Adopted:    5 Yea.**

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

**M 192 07**      **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$250.00 from Mr. Phillips' Youth Activity Account to the Greater Millsboro Chamber of Commerce to be used for co-hosting an Easter Egg Hunt (with Families Connected, Inc.).**

**Youth Activity Grant/Greater Millsboro Chamber of Commerce**

**Motion Adopted:    5 Yea.**

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

**M 193 07**      **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$400.00 (\$80.00 from each Councilman's Councilmanic Account) to the Girl Scouts of Chesapeake Bay Council to cover the costs of lifetime girl scout memberships for two graduating high school seniors.**

**Councilmanic Grant/Girl Scouts of Chesapeake Bay Council**

**Motion Adopted:    5 Yea.**

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

**M 194 07**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$100.00 from Jones' Councilmanic Account to the Georgetown Fire Company Ladies**

**Council-**

- manic  
Grant/  
Georgetown  
Fire Co.  
Ladies  
Auxiliary**      **Auxiliary to purchase baskets for their basket bingo fundraiser.**
- Motion Adopted:**      **5 Yea.**
- Vote by Roll Call:**      **Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Yea**
- 
- M 195 07  
Council-  
manic  
Grant/  
Georgetown  
Fire Co.**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 from Mr. Jones' Councilmanic Account to the Georgetown Fire Company, Inc. for their Ninth Annual Golf Tournament Fundraiser.**
- Motion Adopted:**      **5 Yea.**
- Vote by Roll Call:**      **Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Yea**
- 
- M 196 07  
Youth  
Activity  
Grant/  
Delaware  
Roadrunners**      **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$1,000 (\$200 from each Councilman's Youth Activity Account) to the Delaware Roadrunners Select Baseball to be used toward the expenses of two tournaments.**
- Motion Adopted:**      **5 Yea.**
- Vote by Roll Call:**      **Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Yea**
- 
- M 197 07  
Council-  
manic  
Grant/  
American  
Legion –  
Sussex Post  
No. 8**      **A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$300.00 (\$60.00 from each Councilman's Councilmanic Account) to the American Legion – Sussex Post. No. 8, Inc. to be used to purchase grave flags for Memorial Day.**
- Motion Adopted:**      **5 Yea.**
- Vote by Roll Call:**      **Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Yea**
- 
- M 198 07  
Council-  
manic  
Account/  
Laurel  
Historical  
Society**      **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,000 from Mr. Duke's Councilmanic Account to the Laurel Historical Society to be used to purchase three items (table, stand, & lamp) from the estate of the late Governor Carvel.**
- Motion Adopted:**      **5 Yea.**
- Vote by Roll Call:**      **Mr. Cole, Yea; Mr. Phillips, Yea;**

(Con't.)

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

**M 199 07  
Council-  
manic  
Account/  
Shoes That  
Fit**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$400 from Mr. Rogers' Councilmanic Account to Shoes That Fit to be used to purchase shoes for children within the Cape Henlopen School District.**

**Motion Adopted: 5 Yea.**

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

**M 200 07  
Council-  
manic  
Grant/  
Laurel  
Fireworks  
Celebration**

**A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500 (\$250 each from Councilman Dukes' and Phillips Councilmanic Accounts) to the Laurel Fireworks Celebration to be used for 4<sup>th</sup> of July fireworks.**

**Motion Adopted: 5 Yea.**

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

**M 201 07  
Council-  
manic  
Grant/  
Georgetown  
Historical  
Society**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$250.00 from Mr. Jones' Councilmanic Account to the Georgetown Historical Society to pay the registration fee for the Small Museum Conference.**

**Motion Adopted: 5 Yea.**

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

**M 202 07  
Council-  
manic  
Grant/  
Friends of  
Georgetown  
Public  
Library**

**A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$500 (\$350 from Mr. Jones' and \$50.00 from Mr. Rogers', Mr. Dukes', and Mr. Phillips' Councilmanic Accounts) to the Friends of the Georgetown Public Library, Inc. for their 4<sup>th</sup> Annual 5K Run/Walk.**

**Motion Adopted: 5 Yea.**

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

**M 203 07  
Recess**

**At 12:42 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

**Reconvene**

**At 1:35 p.m., Mr. Dukes called the Council back into session.**

**Public  
Hearing/  
(C/U No.  
1679)  
Herker  
Property  
Maintenance  
Company**

**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 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 Company.**

**The Planning and Zoning Commission held a Public Hearing on this application on March 8, 2007, at which time they recommended that the application be approved based on the findings stated in their record and with 13 conditions.**

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

**The County Council found that the applicant, George Herker, Jr. (son of the principal owner and Southern Division Supervisor of Operations) and the applicant’s attorney, David Rutt, were present on behalf of the application. The applicant provided Exhibit Booklets containing pertinent information in explanation and support of their application. Herker Property Maintenance Company, under the name of Omar Road, LLC, purchased 8.45 acres and subdivided a two-acre parcel for the purpose of constructing an office, warehouse facility, and an apartment. Herker presently has offices in Pennsylvania and is wanting to open an office that will service their Delmarva customers, from Smyrna to the Maryland/Virginia line.**

**Mr. Rutt reviewed the information contained in the Exhibit Booklet, which included the Site Plan, Executive Summary of the proposed project, building contractor information, etc. He noted that two letters had been received from Wawa and Mercantile Peninsula Bank in support of the application. The building would be built by J. S. Kramer Contractors, Milford, and would be a Delmarva Pole Building and have a barn-type look. The apartment – located above the office - would not be completed as living space at this point. Raw materials, such as mulch, stone, and sand, would be stored outside for the applicant’s use only; there would be no retail sales. Employees will consist of a manager, office assistant, sales person, and approximately 4 to 6 employees who would perform off-site maintenance services. There will be minimal traffic at the site. Hours of operation would be 7:00 a.m. to 7:00 p.m., Monday thru Friday, except in the event of weather emergencies.**

**Council expressed concern and was told that there would be no stockpiling of concrete, asphalt, or odor causing fertilizers. It was noted that the stipulation of “no retail sales” was not listed as a condition and Council suggested its inclusion. The applicant stated agreement to Planning & Zoning’s proposed 13 conditions, as well as the inclusion of “no retail sales of raw materials”.**

(Con't.)                   It was also discussed and noted that the applicant would like the option to rent the apartment to a third party (nonemployee) in the future.

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

**M 204 07**                   A Motion was made by Mr. Cole, seconded by Mr. Jones, to add an additional  
**C/U No.**                   condition for Conditional Use No. 1679 that would read, "14. There shall be  
**1679/**                   no retail sales of raw materials onsite".

**Approve**                   Motion Adopted:     5 Yea.

**Additional**

**Condition**

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

**M 205 07**                   A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance  
**Adopt Ord.**               No. 1894 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF  
**No. 1894/**               LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN  
**(C/U No.**               OFFICE AND WAREHOUSE BUILDING WITH AN APARTMENT TO BE  
**1679)**               LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN  
**Herker**               DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.0 ACRES,  
**Property**               MORE OR LESS" (Conditional Use No. 1679) filed on behalf of Herker  
**Maintenance**           Property Maintenance Company, with the following 14 conditions:  
**Company**

1.     There may be one directionally lighted sign on the site, not to exceed 32 square feet in size on each side. No back-lit signage shall be permitted.
2.     The hours of operation for the site shall be from 7:00 a.m. to 7:00 p.m.
3.     The days of operation for the site shall be Monday through Friday, except in the event of emergencies.
4.     There shall be no outside storage on the premises, except raw materials such as sand, stone and mulch. Such storage shall be screened from view from neighboring properties and shall be inside a fenced-in area.
5.     Any security lights shall only be installed on the buildings and shall be directed downward and away from impacting neighboring properties.
6.     The applicant shall comply with all DelDOT requirements, including entrance permits.
7.     All vehicle storage and maintenance will be inside the building.
8.     There shall be no onsite manufacturing of any fixtures for customers.
9.     The applicant will establish and maintain a thirty (30) foot vegetated buffer along Route 54 and the property boundary with lands now or



**M 205 07  
(Con't.)**

formally of the Bakers. Inside the vegetated buffer a security fence will be constructed and maintained. The vegetated buffer will use the "Right Tree for the Right Place" guidelines of the State of Delaware Forestry Department.

10. There shall be no parking in the front yard setback.
11. Any stormwater management pond shall be located away from the front setback.
12. A copy of the septic feasibility letter shall be provide prior to site plan review.
13. The Final Site Plan shall be subject to review and approval of the Planning and Zoning Commission.
14. There shall be no retail sales of raw materials onsite.

**Motion Adopted: 5 Yea.**

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

**Public  
Hearing/  
(C/U No.  
1710)  
Sussex  
County  
Association  
of Realtors**

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 REAL ESTATE EDUCATION CENTER AND ASSOCIATE PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 2.66 ACRES, MORE OR LESS" (Conditional Use No. 1710) filed on behalf of Sussex County Association of Realtors.

Mr. Cole and Mr. Phillips did not participate in the hearing due to their membership within the Association.

The Planning and Zoning Commission held a Public Hearing on this application on March 8, 2007, at which time they recommended that the application be approved based on the findings stated in their record and with 2 conditions.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the County Council's record. Mr. Lank presented Council with copies of the Exhibit Booklet provided by the applicant.

The County Council found that three members of the Board of Realtors, Ken Christenbury of Axion, LLC, as well as the applicant's attorney, Dennis

(Con't.)

Schrader, were present on behalf of the application. Mr. Schrader noted that the County Council approved the existing facility on January 27, 1998 – as Conditional Use No. 1220. Mr. Schrader briefly reviewed the Exhibit Booklet, which included comments from Mr. Christenbury, maps, Ordinance No. 1207 (C/U No. 1220), preliminary site plan, etc. The Board of Realtors have outgrown their current facility and are applying for an extension to C/U No. 1220. Mr. Schrader noted that the application is within a developing area as noted on the Sussex County Comprehensive Land Use Plan and a Level 2 in the Strategies for State Policy and Spending Map that permits commercial and office areas.

Mr. Christenbury reviewed the Exhibit Booklet and its exhibits in greater detail. He noted that since the original Conditional Use was granted and that membership within the Association has almost doubled to a present membership of over 1,500. He mentioned the proposed application is in character with the surrounding area. Mr. Schrader stated the two recommended conditions proposed by Planning and Zoning were a continuation of the original C/U No. 1220 and the applicant was in agreement to both.

Ms. Ruth Briggs King, Executive Vice President of the Sussex County Board of Realtors, reiterated the need for the proposed expansion and that approval would allow educational classes for Association members; increased office space needed by administrative staff; use by other groups for meetings, fundraisers, seminars, etc.; and that the increased technology will be used to forward initiatives in the County that revolve around housing.

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

**M 206 07  
Adopt Ord.  
No. 1895/  
(C/U No.  
1710)  
Sussex  
County  
Association  
of Realtors**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1895 entitled, “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REAL ESTATE EDUCATION CENTER AND ASSOCIATE PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 2.66 ACRES, MORE OR LESS” (Conditional Use No. 1710) filed on behalf of Sussex County Association of Realtors, with the following 2 conditions:

1. The entrance shall remain restricted to Truck Route 9 (Road 321); and
2. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Final Site Plan shall include a Landscaping Plan.

**Motion Adopted: 3 Yea; 2 Abstentions.**

**Vote by Roll Call: Mr. Cole, Not Voting; Mr. Phillips, Not Voting;**

(Con't.)

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

Public  
Hearing/  
(C/Z No.  
1608)  
Massey's  
Landing  
Properties,  
LLC

A Public Hearing was held on the Proposed Ordinance entitled, "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT- RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 56.85 ACRES, MORE OR LESS" (Change of Zone No. 1608) filed on behalf of Massey's Landing Properties, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on March 8, 2007, at which time they deferred action to allow further consideration of the application. Mr. Lank distributed copies of the Exhibit Booklet provided by the applicant.

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

The County Council found that several Faucett family members were present on behalf of the application, along with Jim Fuqua - the applicant's attorney, and Jeff Clark of Land Tech Land Planning, LLC. Mr. Fuqua reviewed the application, as well as the extensive information, documents, and various studies, etc. contained in the applicant's Exhibit Booklet. The property contains 56.85 acres and the Residential Community would include a total of 120 residential units (the maximum permitted density allowed through a MR-RPC is 206). The Community would be a mixture of 48 single-family detached home lots and 72 duplex units, or 2.11 units per acre. The County Engineer's Office has allocated 120 EDUs for this site and is what the applicant used as their planned density. An aerial map of the site was reviewed.

Mr. Clark, licensed Delaware landscape architect with the firm of Land Tech Planning, reviewed and explained the Site Plan as contained in the Exhibit Booklet (Tab 3). The Site Plan was developed with an emphasis on maximizing the number of home sites that would be able to view the wetlands and forested areas, and was developed only after the completion of a Federal and State of Delaware wetlands delineation by Environmental Resources, Inc. The lot size chart (Tab 14) shows the size of all 120 lots and each exceeds the minimum area as contained in the County's zoning ordinance. Sidewalks, street lighting, streets trees, community center, swimming pool, and several recreational features are planned. Land Tech's written response to the PLUS (Preliminary Land Use Service) review is found in Tab 6, with Land Tech's comments written in blue and agency comments shown in black.

Mr. Fuqua presented Mr. Griffin with the applicant's proposed 14 conditions and findings that were also submitted to the Planning and Zoning Commission.

(Con't.)	There were no public comments and the Public Hearing was closed.
M 207 07 Defer Action/ C/Z No. 1608 Massey's Landing Properties	<p>A Motion was made by Mr. Phillips, seconded by Mr. Jones, to close the Public Hearing and defer action on Change of Zone No. 1608.</p> <p>Motion Adopted:     5 Yea.</p> <p>Vote by Roll Call:    Mr. Cole, Yea; Mr. Phillips, Yea;                                  Mr. Rogers, Yea; Mr. Jones, Yea;                                  Mr. Dukes, Yea</p>
Public Hearing/ (C/Z No. 1621) Todd Fritchman	<p>A Public Hearing was held on the Proposed Ordinance entitled, "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10,000 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1621) filed on behalf of Todd A. Fritchman.</p> <p>The Planning and Zoning Commission held a Public Hearing on this application on March 8, 2007, at which time they recommended that the application be approved based on the 4 reasons stated in their record.</p> <p>Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the County Council's record. Mr. Lank distributed copies of an Exhibit Booklet provided by the applicant.</p> <p>The County Council found that the applicant, Todd Fritchman, and the applicant's attorney, Glenn Mandalas, were present on behalf of the application. The application returns the property to its original commercial use. Mr. Fritchman went through County and State regulations to construct a commercial structure on land that was interpreted to be commercial at that time. After the building was constructed, the County realized an encroachment required a variance for a building setback. Through the variance process, the County realized the parcels were residential. Mr. Fritchman reviewed information contained on page 12 of the Exhibit Booklet, which outlines the timeline for the events leading up to the change of zone application. Mr. Fritchman noted that the maps as contained on the County's website still inaccurately list the area in question as C-1 zoning.</p> <p>Mr. Griffin read a letter into the record received from Richard Poppleton in support of the zoning change.</p> <p>There were no public comments and the Public Hearing was closed.</p>
M 208 07	A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt

**Adopt Ord.  
No. 1896/  
(C/Z No.  
1621)  
Todd  
Fritchman**

**Ordinance No. 1896 entitled, "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10,000 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1621) filed on behalf of Todd A. Fritchman.**

**Motion Adopted: 5 Yea.**

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

**M 209 07  
Adjourn**

**At 2:53 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

**Nancy J. Cordrey  
Assistant Clerk of the County Council**