

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 1, 2003**

**Call to Order**            The regular meeting of the Sussex County Council was held Tuesday, April 1, 2003, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**M 188 03**            A Motion was made by Mr. Jones, seconded by Mr. Dukes, to amend the  
**Amend**            Agenda by deleting "Milton Public Library – Contract Amendment No. 3",  
**and**                and to approve the Agenda, as amended.

**Approve**  
**Agenda**            Motion Adopted:    5 Yea.

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

**Caroling**            Council recognized the following schools and organizations who  
**on The**            participated in the County's Caroling on The Circle Food Drive:  
**Circle**            Georgetown Elementary School, North Georgetown Elementary School;  
**Food**            Lewes Middle School, and the Sussex County Mobile Home Tenants  
**Drive**            Association.

**Sussex**            Craig Hudson and Wendy Baker of the Sussex County Land Trust and  
**County**            Ellen Roca of The Nature Conservancy asked Council to contribute  
**Land**            \$600,000 to permanently protect 592± acres of the Great Marsh  
**Trust/**            Conservation Area. A contribution of \$600,000 by Sussex County would  
**Land**            complete the investment necessary for this \$4 million conservation project  
**Acquisition/**    that encompasses three adjacent properties on Oyster Rocks Road. Ms.  
**Oyster**            Roca stated that significant upland, wetland, and aquatic habitats,  
**Rocks**            agriculture, historic farms, environmental quality, and traditional activities  
**Road/**            such as hunting, trapping, fishing, and crabbing will be preserved through  
**Great**            this partnership opportunity.

**Marsh**  
**Conserva-**            Council was advised that there are three adjacent properties on Oyster  
**tion Area**            Rocks Road that comprise this conservation project. Two are being placed  
                                 under conservation easement, a 446-acre parcel and a 103-acre parcel. A  
                                 third 43-acre parcel is under contract to have its fee simple title acquired.

**Sussex  
County  
Land  
Trust/  
Land  
Acquisition  
(continued)**

These three properties protect a mix of wetland and forest habitats, buffers, and agriculturally active acres.

Councilmembers expressed concern that land also needs to be preserved in western Sussex County and that they would like to see the Sussex County Land Trust pursue its next project in that area.

Councilmembers also expressed concern that land acquired should generate income, if possible. Mr. Hudson advised that he will be negotiating an agreement with the Ritter Brothers, who currently farm the 43± acre parcel on Oyster Rocks Road.

**M 189 03  
Approve  
Land  
Acquisition/  
Great  
Marsh  
Conserva-  
tion Area**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the Sussex County Council authorizes the expenditure of \$600,000 for fee simple acquisition of 43± acres to complete the protection of 592 acres, as part of the Great Marsh Conservation Area.

**Motion Adopted: 5 Yea.**

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

**Adminis-  
trator's  
Report**

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

**1. Fellowship Health Resources Fine Arts Program**

During the month of April, artwork will be displayed in the County Administrative Building, The Fellowship Fine Arts Program began in 1999 under the guidance of Barbara Constantine and with the support of Fellowship Health Resources. Fellowship Health Resources' mission is to assist individuals as they recover from mental illness, addiction, developmental disability, and trauma to achieve a higher quality of life. While enrolled in the program, individuals are encouraged to explore the arts through painting, sculpting, and other media.

Each class consists of two to five hours of painting or sculpting, followed by a short critique of the work by their peers. Ms. Constantine stated that, "The artists gain increased self-esteem as they progress in their work; there is a feeling of camaraderie among the group. The more their work is exhibited, the more assertive they have become about themselves and their place in the community."

The Sussex County Council is pleased that they have been able to participate in this successful program.

**Agreements/  
Wedgefield**

Mr. Green, Director of Utility Construction, discussed wastewater facilities constructed in the Ocean View Sanitary Sewer District.



**M 190 03  
Execute  
Agreements/  
Wedgefield  
Phase III**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 309, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Wedgefield Land Limited, for wastewater facilities to be constructed in Wedgefield – Phase III, located in the Ocean View Sanitary Sewer District.

**Motion Adopted: 5 Yea.**

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

**South  
Bethany  
Sanitary  
Sewer  
District/  
Transfer  
of Utility  
Lot #1 in  
Ocean  
Farms**

Mr. Archut, Assistant County Engineer, advised Council that in 2001, Country Life Homes (the developer) has asked that the County return Utility Lot #1 in the Ocean Farms Subdivision. Mr. Archut reported that when the Ocean Farms Subdivision was developed and annexed into the South Bethany Sanitary Sewer District, Utility Lot #1 was conveyed to Sussex County for use as a future pumping station site. In return, the County gave the developer a credit on connection fees in the amount of \$26,000. Since that time, the County has determined that it will not be necessary to locate a pumping station on the site.

Mr. Archut advised that if the County re-conveys the lot back to the developers of the Ocean Farms Subdivision (Country Life Homes), the developers will have to compensate the County for the connection fees credit (\$26,000) and any fees associated with the transfer of the lot back to them.

**M 191 03  
Execute  
Deed  
to Re-  
convey  
Utility  
Lot #1 in  
Ocean  
Farms**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the Sussex County Council President is hereby authorized to execute a deed re-conveying Utility Lot #1 in Ocean Farms Subdivision to Country Life Homes, Inc., at a price of \$26,000, as presented on April 1, 2003.

**Motion Adopted: 3 Yea, 1 Nay, 1 Absent.**

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

**(Mr. Phillips was out of the room during the vote.)**

**SCRWF  
Effluent  
Filter  
Expansion/  
Change  
Order**

Mr. Archut, Assistant County Engineer, discussed a Balancing Change Order for Sussex County Project No. 01-04, SCRWF Effluent Filter Expansion. The project was for the construction of a new 6.0 MGD continuous backwash effluent filtration system, including associated concrete work, plant piping, and related site and demolition work. The construction of the new filter increased filter capacity to 9.0 MGD. Mr. Archut advised that the project was completed last year; that all contingent

(continued) items were not used; and that a credit in the amount of \$2,450.00 is owed to the County.

**M 192 03**  
**Approve**  
**Change**  
**Order/**  
**SCRWF**  
**Effluent**  
**Filter**  
**Expansion**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based on the recommendation of the Consulting Engineer, George, Miles & Buhr, LLP, and the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Project No. 01-04, SCRWF Effluent Filter Expansion, be approved in the credit amount of \$2,450.00; thereby reducing the final contract amount from \$1,341,100.00 to \$1,338,650.00, subject to the review and approval of the U.S. Department of Agriculture, Rural Development.

**Motion Adopted: 5 Yea.**

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

**SCADA**  
**System**  
**Improve-**  
**ments**  
**Phase II**

Mr. Hudson, Director of Maintenance, Engineering Department, discussed Sussex County Project No. 01-06, Phase II SCADA System Improvements. Mr. Hudson reported that Phase I SCADA System Improvements began in May of 1999. The project consisted of twenty pumping stations and two master servers; all communications were achieved by VHF radio. The project was completed in 2000. Phase II SCADA System Improvements began in June of 2001. Change Order Nos. 1 and 2 were initiated due to the complete failure of the existing Intrac alarm system. An accelerated schedule and additional equipment was required. Change Order No. 3 was initiated to add 23 additional pumping stations to the contract. This was made possible through the acquisition of a FEMA grant. Change Order No. 4 was initiated for a 90-day time extension due to radio interference problems experienced in the Dewey/Rehoboth area. Mr. Hudson reported that the current status of the project is as follows:

- 225 pumping stations currently connected to the system.
- 4 Master PLC sites with Spread Spectrum and VHF Communications.
- Remote and Local Connectivity from all treatment facilities.
- Internet and Intranet accessibility into the system with password protection.
- Completed sites have full alarming and control capabilities.

Mr. Hudson advised Council that Substantial Acceptance inspection was held on March 20<sup>th</sup> and that the Engineering Department recommends that Substantial Completion be granted for the project.

**M 193 03**  
**Grant**  
**Substantial**  
**Completion/**  
**SCADA**  
**Project**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that effective April 1, 2003 that Sussex County Council grant Substantial Completion to Trijay Systems, Inc. for Sussex County Project No. 01-06 entitled "Phase II SCADA System Improvements.



**M 193 03**  
**(continued)**

**Motion Adopted: 5 Yea.**

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

**Inland  
Bays  
Regional  
Wastewater  
Facility/  
Aquaguard  
Emergency  
Replace-  
ment**

Mr. Hudson, Director of Maintenance, Engineering Department, discussed the emergency replacement of the Inland Bay's Aquaguard. On January 26, 2003 a fire occurred at the Inland Bays Wastewater Facility. The fire was contained to the Aquaguard unit, which is located at the Headworks of the facility. This unit removes the debris from the incoming influent and deposits it into a dumpster. The fire was caused by debris coming in contact with heat lamps that were being used to de-ice the unit. The facility is presently operating with a Mechanical Bar Screen that requires frequent raking. Mr. Hudson advised that this method will only be sufficient until Memorial Day. The Engineering Department is proposing to replace this piece of equipment with an Andritz Aquaspir Unit at a cost of \$67,595.00. Other price quotes were obtained as follows: Andritz Aqua-Screen (\$81,900.00), Parkson AquaGuard (\$79,814.00), and Parkson Monoscreen (\$69,000.00). Mr. Hudson advised that the Engineering Department is requesting permission to declare this an emergency and permission to proceed with the equipment replacement.

**M 194 03**  
**Declare  
Emergency  
Replace-  
ment of  
Fire  
Damaged  
Screen/  
Inland  
Bays  
Regional  
Wastewater  
Facility**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council declares that the replacement of the fire-damaged screen at the Headworks of the Inland Bays Regional Wastewater Facility requires an emergency response, and directs the Engineering Department to proceed under Paragraph 6907 of the Delaware Code to purchase replacement equipment from Reardon Materials Corp. estimated at \$67,595.00 and contract the installation with Hopkins Construction at an estimated cost of \$22,124.00, subject to the approval of the County's insurance company.

**Motion Adopted: 5 Yea.**

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

**Requests**

Mr. Stickels presented funding requests for Council's consideration.

**M 195 03**  
**Council-  
manic  
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$250.00, \$50.00 from each Councilmanic Account, to Big Brothers Big Sisters for the annual Bowl for Kids' Sake Bowl-a-thon.

**Motion Adopted: 5 Yea.**

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

**M 196 03  
Council-  
manic  
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$1,000.00 (\$200.00 from each Councilmanic Account) to the Sussex County Veterans Council for the purchase of flags to put on the graves of veterans on Memorial Day.

**Motion Adopted: 5 Yea.**

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

**M 197 03  
Council-  
manic  
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$200.00 (\$50.00 each from Mr. Rogers', Mr. Phillips', Mr. Jones', and Mr. Cole's Councilmanic Accounts) to the Sussex Central Softball Boosters for the purchase of team apparel.

**Motion Adopted: 5 Yea.**

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

**Recess**

At 10:55 a.m., Mr. Rogers declared a five-minute recess.

**Reconvene**

Mr. Rogers called Council back into session at 11:00 a.m.

**Public  
Hearing/  
Clerk of  
the Peace  
Fees**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY TO AMEND CERTAIN FEES CHARGED BY THE CLERK OF THE PEACE".

Mr. Stickels reported that this Proposed Ordinance will allow the Clerk of the Peace to charge the same fee (\$10.00) for certified copies of marriage records as is currently being charged by the Clerks of the Peace for New Castle and Kent Counties, as well as the State of Delaware Division of Vital Statistics. Sussex County currently charges a fee of \$6.00 for certifying copies of marriage licenses.

Public comments were heard from Mr. Dan Kramer who stated that the fee is a tax.

The Public Hearing was closed.

**M 198 03  
Adopt  
Ordinance  
No. 1595**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt Ordinance No. 1595 entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY TO AMEND CERTAIN FEES CHARGED BY THE CLERK OF THE PEACE".

**Motion Adopted: 5 Yea.**



**M 198 03  
(continued)**

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

**Introduction  
of  
Proposed  
Ordinance**

**Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO CONSTRUCT, BUILD, AND REPAIR WOODEN PALLETS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 13.392 ACRES, MORE OR LESS” (Conditional Use No. 1497) filed on behalf of Bobby R. Jones. The Proposed Ordinance will be advertised for Public Hearing.**

**Introduction  
of  
Proposed  
Ordinance**

**Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF SELBYVILLE AND GEORGETOWN, DELAWARE, WASTEWATER TREATMENT PLANT BIOSOLIDS AS AN AMENDMENT TO CONDITIONAL USE NO. 1373 AND CONDITIONAL USE NO. 1399 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 88.0 ACRES, MORE OR LESS” (Conditional Use No. 1498) filed on behalf of Synagro-WWT, Inc. The Proposed Ordinance will be advertised for Public Hearing.**

**Introduction  
of  
Proposed  
Ordinance**

**Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF SELBYVILLE AND GEORGETOWN, DELAWARE, WASTEWATER TREATMENT PLANT BIOSOLIDS AS AN AMENDMENT TO CONDITIONAL USE NO. 1372 AND CONDITIONAL USE NO. 1400 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 220 ACRES, MORE OR LESS” (Conditional Use No. 1499) filed on behalf of Synagro-WWT, Inc. The Proposed Ordinance will be advertised for Public Hearing.**

**Introduction  
of  
Proposed  
Ordinance**

**Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LAWN AND LANDSCAPING BUSINESS – NO RETAIL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 15.6 ACRES, MORE OR LESS” (Conditional Use No. 1500) filed on behalf of Superior Lawn and Landscaping. The Proposed Ordinance will be advertised for Public Hearing.**

**M 199 03  
Recess**

**At 11:15 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Jones, to recess at 11:15 a.m. Motion Adopted by Voice Vote.**

**Reconvene** Mr. Rogers called Council back into session at 1:30 p.m.

**Public Hearing (C/U No. 1483)** 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 ELECTRONIC EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6,589 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1483) filed on behalf of Comcast, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on March 13, 2003 at which time they recommended that the application be approved, with conditions.

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

The Commission found that Gerald Howard was present on behalf of the application. Mr. Howard stated that Comcast, Inc. proposes to build an electronic equipment storage building with cable equipment to improve service to the Laurel/Seaford areas

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

**M 200 03 Adopt Ordinance No. 1596 (C/U No. 1483)** A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt Ordinance No. 1596 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR ELECTRONIC EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6,589 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1483) filed on behalf of Comcast, Inc., with the following conditions:

1. The equipment building shall not exceed the measurements of 25 feet by 25 feet.
2. The equipment building shall be surrounded by chain-link type fencing with a gate.
3. The security lighting shall be directed so that it does not shine into neighboring residences or interfere with the vision of traveling motorists.
4. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

**Motion Adopted:** 5 Yea.

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



**Findings  
of Fact**

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

1. The proposed use meets the public service requirement, in that it is for a building that will house electronic equipment for the upgrade of cable service to the public.
2. The proposed building will not be staffed and the infrequent use of the site will have no significant impact on traffic.
3. The applicant has obtained a DelDOT entrance permit.
4. There are no known problems with equipment of the type to be installed causing interference with the neighbor's reception of broadcast signals.
5. The use will not adversely affect the uses or values of surrounding properties.
6. Approval of the application will promote the health, safety, prosperity, and general welfare of the present and future inhabitants of the County.

**Public  
Hearing  
(C/U  
No. 1484)**

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 RETAIL PRODUCE MARKET TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.27 ACRES, MORE OR LESS" (Conditional Use No. 1484) filed on behalf of Good Earth Market, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on March 13, 2003 at which time they deferred action; on March 27, 2003 the Commission recommended that the application be approved, with conditions.

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

The Council found that David and Susan Ryan were present on behalf of their application. They stated that they propose to create an organic farm with greenhouses, working fields for herbs, produce, and flowers, and a produce market for the sale of produce grown by them and others; that they propose to sell fruits, vegetables, organic materials and organic meats; and that they would also like to sell compatible products. They referred to the Commission's proposed conditions requiring a five-foot fence around the existing pond and an unlighted sign. They stated that they would prefer a 3-½ foot fence and a lighted sign.

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

**M 201 03  
Adopt  
Ordinance  
No. 1597**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1597 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL PRODUCE MARKET TO

**M 201 03**  
**Adopt**  
**Ordinance**  
**No. 1597**  
**(C/U**  
**No. 1484)**  
**(continued)**

**BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.27 ACRES, MORE OR LESS” (Conditional Use No. 1484) filed on behalf of Good Earth Market, LLC., with the following conditions:**

- 1. The applicant will complete an entrance and exit on Route 26 as required by DelDOT.**
- 2. The hours of operation for the market are to be 10:00 a.m. to 6:00 p.m. year round, with hours of 10:00 a.m. to 9:00 p.m. during the summer season.**
- 3. No retail sales of mulch or stone for landscaping shall be permitted.**
- 4. The existing pond shall be fenced with a minimum 3-½ foot high fence.**
- 5. One sign, not exceeding 32 square feet per side or facing, may be permitted.**
- 6. The wooded buffer along neighboring property lines will stay intact.**
- 7. The parking area surface will be improved with at least gravel.**
- 8. The site plan shall be subject to review by the Planning and Zoning Commission.**

**Motion Adopted: 5 Yea.**

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

**Findings**  
**of Fact**

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

- 1. The conditions recommended by the Commission, as modified by Council, will limit any potential impacts on neighboring properties and highway safety.**
- 2. The use will have no significant impact on traffic as per notice from DelDOT.**
- 3. The Office of State Planning Coordination has no objections.**
- 4. The use is of a public or semi-public nature.**
- 5. There is a public demand for organically grown fruits and vegetables.**
- 6. Approval will promote the health, safety, welfare, and prosperity of present and future residents of the County.**

**Public**  
**Hearing**  
**(C/Z**  
**No. 1493**  
**and**  
**C/Z**  
**No. 1494)**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.39 ACRES, MORE OR LESS” (Change of Zone No. 1493) and “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF**



**Public  
Hearing  
(C/Z  
No. 1493  
and  
C/Z  
No. 1494)  
(continued)**

**LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17,609 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1494) filed on behalf of Keith Properties, Inc.**

**The Planning and Zoning Commission held a Public Hearing on these applications on March 13, 2003 at which time they deferred action.**

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

**Mr. Lank, Director of Planning and Zoning, reported that since the Public Hearing on March 13th, a memo has been received from the Planning and Permits Division of the Sussex County Engineering Department. The memo states that the site is within the Fenwick Island Sanitary Sewer District; system connection calculations were based on 4 units per acre; that there are currently 3 EDUs of capacity available for this usage; that the South Coastal Area Planning Study report identified long term concerns for this portion of the Sewer District; that temporary limits may be placed on a change of use if flows are expected to exceed pipeline capacity; that there is a six-inch lateral provided for this parcel; that the Engineering Department reserves the right to require an eight-inch lateral to be installed for commercial properties; and that conforming to the South Coastal Area Planning Study or undertaking an amendment will be required.**

**Mr. Lank also reported that two additional letters of opposition were received.**

**The Council found that James Fuqua, Attorney, and Mark Davidson, DC Group, were present on behalf of the application. Mr. Fuqua stated that the applicant is requesting that the frontage along Route 54 be zoned B-1 and that a portion of the property be changed from AR-1 and B-1 to MR so that the site to the rear can be subdivided (a subdivision application for Fenwick Shoals has been submitted to the Planning and Zoning Commission); that the applicant owns “The Blind Factory” for window treatments; that the applicant would like to expand the uses of the site by adding a home decorating center (flooring store and a furnishings store); that the Keith’s would operate all the businesses; that they are willing to create private deed restrictions that will state that the land shall not be used for retail baker, delicatessen, filling station, fast food restaurant, convenience store or building material/ lumber yard; that this restriction shall run with the land and shall be binding on the Grantee, it successors or assigns; and that the restriction shall not be amended or removed without the written consent of DelDOT.**

**Mr. Fuqua stated that, at the Public Hearing before the Planning and Zoning Commission, a concern was expressed that there would be a lot of boat docks and piers constructed; that all lots in the subdivision should comply with all buffer zone requirements; and that there would be a negative impact on the island and adjacent properties. Mr. Fuqua stated that discussions with the opposition (Dennis Johnson) were held and deed**

**Public  
Hearing  
(C/Z  
No. 1493  
and  
C/Z  
No. 1494)  
(continued)**

restrictions and a buffer agreement for the Fenwick Shoals subdivision were proposed. Mr. Fuqua read a letter into the record from Dennis and Sharon Johnson, dated April 1, 2003 stating that if the developers of the Fenwick Shoals subdivision agree to the deed restrictions and buffer agreement, then they would agree to withdraw their objections. The letter further notes that a number of their neighbors in Keen-Wik and the Keen-Wik Association will also withdraw their objections to the proposed rezoning and subdivision if the developers agree to the deed restrictions and buffer agreement.

Mr. Fuqua noted that the deed restrictions would be implemented for site plan review.

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

**M 202 03  
Defer  
Action on  
C/Z  
No. 1493  
and  
No. 1494**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to defer action on Change of Zone No. 1493 and No. 1494, filed on behalf of Keith Properties, Inc.

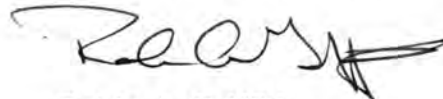
**Motion Adopted: 5 Yea.**

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

**M 203 03  
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 2:10 p.m. Motion Adopted by Voice Vote.

**Respectfully submitted,**



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