



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 25, 2006

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 25, 2006 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 287 06 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the
Amend and agenda by deleting "Purchase of Property Adjacent to Landfill No. 2 –
Approve Stockley", and to approve the Agenda, as amended.
Agenda

Motion Adopted: 5 Yea.

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

M 288 06 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the
Approve minutes of March 28, 2006.
Minutes

Motion Adopted: 5 Yea.

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

Corre- Mr. Griffin read the following correspondence:
spondence

INDIAN RIVER BASEBALL BOOSTERS.
RE: Letter in appreciation of grant funding.

**C. DELLA CAMERA, GIRL SCOUTS, MILLSBORO, DELAWARE.
RE: Letter in appreciation of grant funding.**

NORMA HARRISON.

RE: Letter in appreciation of repairs to her home which were made possible by the Sussex County Community Development Office.

**M 289 06
Authorize
Executive
Session**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to authorize an Executive Session to be held at the conclusion of the morning session for the purpose of discussing land acquisition and pending litigation.

Motion Adopted: 5 Yea.

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

**Adminis-
trator's
Report**

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

1. Beneficial Acceptance

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

- **The Villages of Five Points, East Village Phase 2; Phase 2, Agreement No. 293-1, was granted Beneficial Acceptance on April 10, 2006. The developer is Old Towne Pointe, L.L.C., and the project is located on the east side of Route 1 at Five Points in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 55 single-family lots.**
- **The Villages of Five Points, East Village Phase 2; Phase 3, Agreement No. 293-2, was granted Beneficial Acceptance on April 10, 2006. The developer is Old Towne Pointe, L.L.C., and the project is located on the east side of Route 1 at Five Points in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 24 single-family lots.**

**M 290 06
Adopt
Procla-
mation**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proclamation entitled "PROCLAIMING THE MONTH OF APRIL AS *FAIR HOUSING MONTH* IN SUSSEX COUNTY".

Motion Adopted: 5 Yea.

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

Ruth Briggs King, Sussex County Association of Realtors, was present to accept the Proclamation.

**Advisory
Committee/
Member
Resignation**

Mr. Godwin announced the resignation of David B. Webb, Jr. from the Advisory Committee for the Aging and Adults with Physical Disabilities.

**M 291 06
Authorize
Appointment to
Advisory
Committee**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to appoint James Moseley to replace David B. Webb, Jr. on the Advisory Committee for the Aging and Adults with Physical Disabilities.

Motion Adopted: 5 Yea.

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

**Wastewater
Agreements**

Mr. Godwin presented wastewater agreements for the Council's consideration.

**M 292 06
Authorize
Execution
of Agreements/
Keith
Properties**

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. 362, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Keith Properties, for wastewater facilities to be constructed in Fenwick Shoals – Phase II, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

**M 293 06
Authorize
Execution
of Agreements/
CMF Communities**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 566, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and CMF Communities, LLC, for wastewater facilities to be constructed in Americana Bayside – Phases 7A and 9A, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

**M 294 06
Authorize
Execution
of Agree-
ments/
CMF
Bayside
M 294 06
(continued)**

**A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 571, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and CMF Bayside, LLC, for wastewater facilities to be constructed in Americana Bayside – Phases 7B and 9B, located in the Fenwick Island Sanitary Sewer District.
Motion Adopted: 5 Yea.**

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

**M 295 06
Authorize
Execution
of Agree-
ments/
CMF
Bayside**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 573, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and CMF Bayside, LLC, for wastewater facilities to be constructed in Americana Bayside – Phase 10A, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

**M 296 06
Authorize
Execution
of Agree-
ments/
CMF
Bayside**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 576, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and CMF Bayside, LLC, for wastewater facilities to be constructed in Americana Bayside – Phase 10B, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

**M 297 06
Authorize
Execution
of Agree-
ments/
Swann
Cove**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 626, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Swann Cove, LLC for wastewater facilities to be constructed in Swann Cove – Phase III, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

**M 298 06
Authorize
Execution
of Agree-
ments/
Ocean
Dunes**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 544, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Ocean Dunes, LLC, for wastewater facilities to be constructed in Canal Villas, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

**Group
Hospital
Renewal
Recommen-
dation**

Mr. Baker, Finance Director; Mr. Cordrey, Personnel Director; and Mr. David Smith, President of Integra Administrative Group (the County's Group Hospital Administrator) presented their recommendation for the renewal of the County's Group Hospital insurance coverage.

Mr. Baker reported that Group Hospital costs continue to increase at over double the inflation rate and that the County is anticipating a 10 percent Group Hospital total rate increase next year.

Mr. Baker reviewed the benefits that are currently offered to County employees. He stated that, because co-pays were increased effective August 2005, they are not recommending any cost increases for employees this year.

Mr. Baker noted that the County's Plan is a self-funded plan and the County purchases reinsurance for catastrophic claims (claims over \$150,000.00 per individual per year). The insurance also provides a total cap for all the costs of the Group Hospital Plan. During the last 58 months, the County has paid the reinsurance companies \$1,745,000.00 and the reinsurance companies have paid out \$1,805,000.00, a \$60,000 loss to the reinsurance companies.

Mr. Baker advised that Integra requested quotes from the following companies for reinsurance: Lloyds of London, Zurich, Guardian, Companion Life and United Health Care. He reported that Guardian, Companion Life and United Health Care would not provide a quote due to ongoing medical conditions in the County's group. Lloyds did provide a quote; however, it was not competitive.

Mr. Baker presented the following information and recommendations for the Group Hospital Plan for the Plan Year beginning May 1, 2006 through April 30, 2007: to change the Group Hospital Reinsurance Deductible from the current \$150,000 to \$200,000 and to stay with the same reinsurer (Zurich) with the same Aggregate Specific Deductible of \$100,000. The recommended option would result in an approximate savings of \$98,000 for the year.

(continued) Mr. Smith commended the Council for providing the County employees with an excellent plan.

**M 299 06
Authorize
Employee
Health
Plan for
the Plan
Year
5/1/06
through
4/30/07**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council authorizes the following for the Employee Health Plan for the Plan Year May 1, 2006 through April 30, 2007:

- the continuation of Integra Administrative Group as the County's Group Hospital Administrator.
- the approval of Zurich Life Insurance Company as the provider of the Group Hospital Reinsurance and Pharmacare as the prescription card provider;
- the approval of the Group Hospital Reinsurance Deductible at \$200,000 and Aggregate Specific Deductible of \$100,000; and
- the maintenance of the County's Group Hospital Program at the current benefit levels.

Motion Adopted: 5 Yea.

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

**Defer
Agenda
Item**

Mr. Griffin requested and the Council agreed to defer action on the Agenda item entitled "Notice of Appeal by Libirio, L.P. regarding Subdivision No. 2002-39, Christine Reece and William Gugno" until May 9, 2006.

**Moderately
Priced
Housing
Units/
RFPs and
Final
Approval**

Mr. LeCates, Director of Community Development, reported that the County advertised for Moderately Priced Housing Unit (MPHU) Request for Proposals (RFPs). Mr. LeCates distributed information on the three requests received. He reported that requests were received from North Milton Development Group (400+ units), Lewes Investment Company (105 units/ 20 percent of the total units being MPHU Tier B Units); and Seacoast Investments, LLC (41 units/20 percent split 14 Tier A, 14 Tier B and 13 Tier C).

Mr. LeCates reported that it has been determined that all three RFPs met the goals of the MPHU Program. He noted that, if all three are approved, 546 new moderately priced housing units would be provided for in Sussex County. All the projects would be required to go through the Planning and Zoning and State PLUS process. The MPHU Ordinance permits an

expedited review and bonus density. He noted that with Council's approval, the application could proceed through the County's zoning process.

M 300 06 A Motion was made by Mr. Phillips, seconded by Mr. Jones, that the Sussex
Accept County Council accepts the three Request for Proposals (RFPs) for the
RFPs/ Moderately Priced Housing Unit (MPHU) Program (North Milton
MPHU Development Group, Lewes Investment Company, and Seacoast
M 300 06 Investments, LLC) and authorizes the proposed projects to move forward
(continued) to Planning and Zoning and the State PLUS process.

Motion Adopted: 4 Yea, 1 Nay.

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

Airport Mr. Masten, Director of Economic Development, reported that John
Hangar Reichert, a proposed lease holder, has notified the County that he wishes to
Site terminate his lease for Lot #2 on the new taxiway at the Sussex County
Lease Airport. Mr. Reichert wishes to lease a smaller lot to accommodate a
Termination hangar of approximately one-half the size of the hangar proposed for Lot
Request #2. He is requesting that the proposed Lease Agreement be terminated for
Lot #2 at the Sussex County Airport. Mr. Masten stated there is a waiting
list for the sites on the new taxiway.

M 301 06 A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex
Authorize County Council authorizes the termination of a proposed Lease Agreement
Termination with John Reichert for Lot #2 on the new taxiway at the Sussex County
of a Airport.
Proposed

Motion Adopted: 5 Yea.

Lease **Vote by Roll Call:** Mr. Cole, Yea; Mr. Phillips, Yea;
Agreement/ Mr. Dukes, Yea; Mr. Jones, Yea;
John Mr. Rogers, Yea
Reichert

Airport Mr. Masten reported that David and Jonathan Jones have requested space
Hangar at the Sussex County Airport to construct an approximately 10,000 square
Site foot airplane hangar on Lot #2 on the new taxiway at the Sussex County
Lease/ Airport. The lease terms will be as follows: 30 year lease with two 10-year
David & options; CPI yearly increase after the fifth year; \$750.00 monthly land
Jonathan lease; proposed improvements to be reviewed by the Engineering
Jones Department; and construction to begin within 180 days.

M 302 06 A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex
Authorize County Council authorizes the Sussex County Council President to execute
Lease a Lease Agreement with David A. and Jonathan D. Jones to lease property
Agreement/ (Lot #2) at the Sussex County Airport to construct an airplane hangar, not

David & Jonathan Jones exceeding the 10,000 square foot maximum; prior to executing the above Lease Agreement, any changes to the Lease Agreement will be reviewed and approved by the County Administrator and County Finance Director,

Motion Adopted: 5 Yea.

M 302 06 (continued) **Vote by Roll Call:** Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Jones, Yea; Mr. Rogers, Yea

Request for Time Extension/ C/U No. 1488 Mr. Lank, Director of Planning & Zoning, reported that a letter, dated February 22, 2006, was received from James A. Fuqua requesting that the County Council authorize an additional one year extension through June 3, 2007 for Conditional Use No. 1488. Ordinance No. 1613 (Conditional Use No. 1488) filed on behalf of Vaughn Melson and Alfred Melson was approved by the County Council on June 3, 2003 for a 143 residential unit development located on Cedar Neck Road.

Mr. Fuqua stated in his letter that Alfred Melson and Vaughn Melson (his son) had begun engineering work to obtain site plan approval when Alfred Melson suddenly died in October 2003. A dispute developed between Vaughn Melson and Deborah Melson, Alfred Melson's widow, over the ownership of Bethany Marina Inc., the legal owner of the land approved for the conditional use. The dispute has resulted in litigation making it impossible to proceed with the development until the ownership issue is resolved by the court. Two one-year extensions of the conditional use approval were previously obtained; the second extension expires on June 3, 2006. Pursuant to Chapter 115, Section 174 of the Sussex County Code, the Planning and Zoning Commission is not authorized to grant more than two one-year extensions.

M 303 06 Approve Time Extension/ C/U No. 1488 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council approves a one-year time extension for Conditional Use No. 1488, until June 3, 2007.

Motion Adopted: 4 Yea, 1 Nay.

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

Old Business/ C/Z No. 1572 The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX

COUNTY, CONTAINING 79.432 ACRES, MORE OR LESS” (Change of Zone No. 1572) filed on behalf of Riverview, LLC.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on March 31, 2005 at which time they deferred action; on May 12, 2005 the Commission recommended that the application be denied.

**Old
Business/
C/Z
No. 1572
(continued)**

Mr. Lank read a summary of the Commission’s public hearing and recommendation of denial.

Mr. Lank reviewed the proposed findings of fact and conditions, which were submitted by the applicant during the public hearing before the County Council.

The Council reviewed the site plan and discussed the proposed construction of a bridge entrance. During the public hearing, the applicant proposed the bridge entrance since they could not reach an agreement with an adjacent landowner for an alternative access. The Council discussed a proposed stipulation which would not permit the construction of a bridge entrance. It was the consensus of the Council that a bridge entrance should not be permitted.

In response to concerns raised by Mr. Cole, Mr. Lank reported that, based on comments from the Engineering Department’s comments, the site is not located in a County sanitary sewer and/or water district; that the site is within the Holts Landing Planning Area as defined by the South Coastal Area Planning Study Update of 2004; and, that conformity to the South Coastal Area Planning Study or undertaking an amendment will be required.

**M 304 06
Adopt
Ordinance
No. 1846
(C/Z
No. 1572)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1846 entitled “AN ORIDNANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 79.432 ACRES, MORE OR LESS” (Change of Zone No. 1572) filed on behalf of Riverview, LLC., with the following conditions:

- 1. The maximum number of dwelling units shall not exceed seventy-two (72). These shall be single family detached condominium homes.**
- 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT’s determination.**
- 3. Recreational facilities and amenities shall be constructed and open to use by residents of the development within two (2) years of the issuance of the first building permit. These amenities shall include a swimming**

**M 304 06
(continued)**

- pool and community clubhouse.
4. The development shall be served as part of the Sussex County Sanitary Sewer System in accordance with the Sussex County Engineering Department's specifications and regulations.
 5. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
 6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements and will utilize best management practices.
 7. Site plan review for the development shall be subject to approval of the Planning and Zoning Commission.
 8. The interior street design including sidewalks and streetlights shall be in accordance with or exceed Sussex County street design requirements and/or specifications.
 9. The applicant shall submit as part of the site plan review a landscape plan showing the proposed landscape design.
 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 p.m., Monday through Saturday.
 11. A fifty (50) foot buffer shall be provided from the State wetland line.
 12. No individual or community boat docks, piers or boat launching facilities for motorized boats shall be permitted.
 13. Road naming and addressing shall be approved by the Sussex County Addressing Department.
 14. Vehicular access shall be by a road constructed to County standards on the Applicant's property or by an easement approved by the County Attorney over the lands of an adjoining property owner.

Motion Adopted: 4 Yea, 1 Nay.

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

Table Agenda Item At the recommendation of Mr. Stickels, the Agenda item entitled "Energy Management/Purchasing" was tabled until the May 2, 2006 meeting.

**Bid Award/
Paramedic
Vehicle
Conversions** Frank Shade, Purchasing Agent and Fleet Manager, reported on the bid results for the custom conversion of two (2) Dodge Durango's for use as paramedic vehicles, as follows:

J & J Emergency Vehicles	\$18,977.00 each
Singer Associates	\$21,725.00 each
General Sales Administration	\$22,313.00 each
Odyssey Automotive	\$22,417.00 each

Mr. Shade reported that the EMS staff reviewed the bids and recommended

that the bid be awarded to J & J Emergency Vehicles.

M 305 06
Accept Bid
for
Paramedic
Vehicle
Conversions
M 305 06
(continued)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council accepts the bid of J & J Emergency Vehicles in the amount of \$18,977.00 per nit for two (2) Dodge Durango for use as paramedic vehicles unit conversions.

Motion Adopted: 5 Yea.
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

Surplus
Equipment
and
Vehicles

Mr. Shade reported that the filing systems in Accounting and Administration were recently upgraded. This resulted in a surplus of older filing cabinets that need to be disposed of. Mr. Shade recommended that the filing cabinets be offered to the public for sale at a reasonable price. Additionally, seven vehicles and a flatbed trailer are no longer of use to the County since they are in various stages of disrepair. Mr. Shade recommended that the following be disposed of at public auction:

1993 Chevrolet Blazer
1992 Ford Pickup
1985 Chevrolet Pickup
1991 Chevrolet Blazer
1992 GMC Jimmy
1990 Dodge Van
1994 Chevrolet Corsica
1986 Eager Beaver Trailer

M 306 06
Authorize
Disposal of
Surplus
Equipment
and
Vehicles

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council authorizes the disposal of surplus equipment and vehicles per approved County policy.

Motion Adopted: 5 Yea.
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

M 307 06
Recess/
Executive
Session

At 11:56 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess and go into Executive Session.

Motion Adopted: 5 Yea.
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

Executive

An Executive Session of the Sussex County Council was held on April 26,

Session	2006 in the Caucus Room adjacent to the Sussex County Council Chambers beginning at 11:57 a.m. The purpose of the Executive Session was to discuss personnel and land acquisition issues. The Executive Session concluded at 12:43 p.m.
M 308 06 Adjourn/ Reconvene	At 12:44 p.m., a Motion was made by Mr. Jones, seconded by Mr. Dukes, to adjourn the Executive Session and reconvene the Regular Session. Motion Adopted by Voice Vote.
M 309 06 Recess	At 12:45 p.m., a Motion was made by Mr. Jones, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.
Reconvene	Mr. Rogers called the Council back into session at 1:50 p.m.
Requests	Mr. Baker presented grant requests for the Council's consideration.
M 310 06 Council- manic Grant	A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$1,250.00 (\$750.00 from Mr. Phillips' Councilmanic Grant Account and \$125.00 each from Mr. Cole's, Mr. Dukes', Mr. Jones' and Mr. Rogers' Councilmanic Grant Accounts) to the OM Boosters of the Indian River School District for World Finals trip expenses. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Jones, Yea; Mr. Rogers, Yea
M 311 06 Council- manic Grant	A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$250.00 (\$50.00 from each Councilmanic Accounts) to the Delaware Foundation Reaching Citizens (DFRC) for the Blue-Gold All Star Football Game to provide funds to benefit people with cognitive disabilities. Motion Adopted: 4 Yea, 1 Absent Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Jones, Absent (out of room); Mr. Rogers, Yea
M 312 06 Council- manic Grant	A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$300.00 (\$150.00 each from Mr. Dukes' and Mr. Phillips' Councilmanic Grant Accounts) to the Laurel Middle School for the Business Professionals of America National Leadership Conference. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Jones, Yea; Mr. Rogers, Yea

M 313 06 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$250.00 from Mr. Cole's Councilmanic Grant Account to the Bethany Beach 4th of July Parade Committee for the 2006 July 4th event.**

Motion Adopted: 5 Yea.

M 313 06 (continued) **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

M 314 06 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$150.00 from Mr. Cole's Councilmanic Grant Account to the City of Rehoboth Beach for a Lakes' Preservation workshop.**

Motion Adopted: 5 Yea.

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

M 315 06 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$200.00 (\$100.00 each from Mr. Cole's and Mr. Phillips' Councilmanic Grant Accounts) to the Indian River School District's Adult Education Division for the Delaware Quick Chick's travel expenses to the Huntsman World Senior Games.**

Motion Adopted: 5 Yea.

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

M 316 06 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Cole's and Mr. Phillips' Councilmanic Grant Accounts) to the Beach & Bay Cottage Tour for the 2006 annual event (to benefit the Friends of the South Coastal Library).**

Motion Adopted: 5 Yea.

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

**LLCs/
Disclosure
of Principals** **Mr. Cole referred to previous discussions on the disclosure of the principals of LLCs and Limited Partnerships. He asked the Council if there was a consensus to amend the County's zoning application form to require this disclosure. It was decided to discuss this matter at the next Council meeting**

under “Additional Business”.

Introduction of Proposed Ordinance	Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO CONDITIONS OF APPROVAL OF CONDITIONAL USE NO. 1314 FOR A MICRO-NUTRIENT PLANT WITH RELATED TRUCK ENTRANCE AND RAIL SPUR FOR THE PROCESSING AND HANDLING OF POULTRY LITTER TO BE LOCATED ON A CERAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS” (Conditional Use No. 1691) filed on behalf of Perdue Farms AgriRecycle, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.
Introduction (continued)	

Public Hearing (C/U No. 1646)	At 2:08 p.m., 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 SMALL BUSINESS SELLING ANTIQUES AND GIFTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.49 ACRES, MORE OR LESS” (Conditional Use No. 1646) filed on behalf of Carolyn A. DeSilva.
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The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on April 6, 2006 at which time they recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 6, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission and their recommendation of approval.)

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

The Council found that Carolyn DeSilva was present and stated that no additional construction or buildings are proposed; that there would not be any deliveries to the site; that she sells antiques and small gifts from the outbuildings located on the site; that she would like to be open seven days per week from 9:00 a.m. to 6:00 p.m.; that she would like to hold some educational lectures/appraisal sessions in the evenings; that there would be no outside displays; that she is the only employee and has no need for additional employees; and that there are no plans for any public auctions.

It was noted that if Ms. DeSilva wishes to hold lectures and sessions, additional parking would be necessary. This application does not provide for that use and therefore; Ms. DeSilva would have make a new application to include that use and the required additional parking.

In response to a question asked by Ms. DeSilva, Mr. Abbott responded that the illuminated sign must be setback 5 feet from any property lie.

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

M 317 06
Adopt
Ordinance
No. 1847
(C/U
No. 1646)

A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt Ordinance No. 1847 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL BUSINESS SELLING ANTIQUES AND GIFTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.49 ACRES, MORE OR LESS (Conditional Use No. 1646) filed on behalf of Carolyn A. DeSilva, with the following conditions:

1. The hours of operation shall be limited to 9:00 a.m. to 6:00 p.m., seven days per week.
2. Only one illuminated sign, not to exceed 32 square feet per side or facing, may be permitted on the site.
3. No employees other than the applicant shall be permitted.
4. No public auctions shall be permitted on the site.
5. There shall be no dumpster on the site.
6. There shall be no outside storage or displays permitted.
7. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

Public
Hearing/
C/U
No. 1647

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 WAREHOUSE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS” (Conditional Use No. 1647) filed on behalf of BDP Investments, L.L.C.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on April 6, 2006 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 6, 2006 for additional information on the application, correspondence received, and the Public Hearing before the Commission.

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

The Council found that Tim Willard, Attorney, was present with Victor Bautista, a principal of BDP Investments, L.L.C and Delmarva Insulation.

**Public
Hearing/
C/U**

**No. 1647
(continued)**

Mr. Willard noted that Robert DeVeer and Gerald Palmer are also principals of BDP Investments, L.L.C.

Mr. Willard stated that BDP Investments owns the property which is located west of Old Furnace Road on Route 9; that the proposed warehouses are for an insulation business; that the insulation business serves the new single family and poultry construction in the Delmarva region; that the character of the area is mixed uses - that agricultural lands, a sporting goods store, a home occupation, a high school, a firing range and small arms dealer, single family homes, and a church are located in the area; that no Traffic Impact Study was required by DelDOT; that on-site septic has been approved by DelDOT; that there would be no retail business on the site; that there would be no outside storage of materials; and that they plan to install a privacy fence to address a neighbor's concerns.

Mr. Willard referred to a letter included in the record of the Public Hearing before the Planning and Zoning Commission from John E. Tarburton, Attorney, on behalf of his clients, Ronald and Melissa Williamson, in opposition to the application. He stated that the applicant has attempted to address the Williamson's concerns by adding fencing and by putting parking in the rear of the property.

Public comments were heard. Melissa Williamson was present in opposition to the application. She stated that, although the applicant has tried to address some issues, she still has concerns. She stated that the proposed business would be out of character with the area; that the proposed business would cause a decline in property values; that there are a lot of upscale residential homes in the area; that area property owners do not want warehouses next to their dwellings; that a large number of trucks would be entering and exiting the site creating more traffic on a roadway where there are already traffic problems; that a school bus stop is located in the area and the use would cause additional safety concerns for children; that the use would cause noise and odors; and that the use of the site should remain residential.

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

**M 318 06
Defer
Action on
C/U**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1647, filed on behalf of BDP Investments, L.L.C.

Motion Adopted: 5 Yea.

No. 1647

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

**Public
Hearing**

**Public
Hearing/
C/U
No. 1648**

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 RETAIL SALES OF BIRDS, SUPPLIES AND RELATED ITEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.17 ACRES, MORE OR LESS” (Conditional Use No. 1648) filed on behalf of Terri L. Martin.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on April 6, 2006 at which time they recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 6, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission, and their recommendation of approval.

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

The Council found that Terri Martin was present on behalf of her application. She stated that she wishes to continue her business of selling birds and supplies and to perform bird grooming; that she resides on the adjoining parcel; that the site was originally approved as a conditional use for antique sales; that she proposes the hours of operation to be 10:00 a.m. to 6:00 p.m. seven days per week; that she needs a larger illuminated sign that what was stipulated by the Commission; and that the use would not have a negative impact on traffic.

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

**M 319 06
Adopt
Ordinance
No. 1848
(C/U
No. 1648)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1848 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RETAIL SALES OF BIRDS, SUPPLIES AND RELATED ITEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.17 ACRES, MORE OR LESS” (Conditional Use No. 1648) filed on behalf of Terri L. Martin, with the following conditions:

1. The applicant is permitted to erect signage based on what is allowed in a

B-1 District.

2. Any security lights shall only be installed on the building and shall be screened so that they do not shine on neighboring properties or towards Route 9.
3. No outside storage shall be allowed on the premises.
4. The hours of operation for the business on this site shall be limited to 10:00 a.m. to 6:00 p.m. seven days per week.
5. There shall be no unrelated sales on the site such as barbeques.
6. The 6 cubic yard dumpster shall be screened from Route 9 and neighboring properties.
7. The site plan shall be subject to the approval of the Planning and Zoning Commission.

**M 319 06
Adopt
Ordinance
No. 1848
(C/U
No. 1648)
(continued)**

Motion Adopted: 5 Yea.

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

**M 320 06
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to adjourn at 2:49 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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