



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 1, 2007

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 1, 2007 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney

M 259 07 A Motion was made by Mr. Cole, seconded by Mr. Jones, to amend the
Amend Agenda by deleting “Joe Thomas, Director of Emergency Operations - UHF
and Siren Controller, Bid Results”, and to approve the Agenda, as amended.
Approve
Agenda

Motion Adopted: 3 Yeas, 2 Absent.

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

M 260 07 A Motion was made by Mr. Jones, seconded by Mr. Cole, to approve the
Approve minutes of April 3, 2007.
Minutes

Motion Adopted: 3 Yeas, 2 Absent.

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

Corre- Mr. Griffin read the following correspondence:
spondence

GIRL SCOUTS OF CHESAPEAKE BAY COUNCIL, MILLSBORO, DELAWARE.

RE: Letter in appreciation of recent grant.

SHOES THAT FIT, CLAREMONT, CALIFORNIA.

RE: Letter in appreciation of recent grant.

CASA SAN FRANCISCO, MILTON, DELAWARE.

RE: Letter in appreciation of recent grant.

**Corre-
spondence
(continued)**

**WOODBIDGE ELEMENTARY SCHOOL, GREENWOOD,
DELAWARE.**

RE: Letter in appreciation of recent grant.

CINDY RINIKER.

RE: Letter commending County employee, Kim Beauchamp.

**LEAGUE OF WOMEN VOTERS OF SUSSEX COUNTY, REHOBOTH
BEACH, DELAWARE.**

**RE: Letter in appreciation of grant funding for their publication “They
Represent You”.**

Mr. Phillips and Mr. Rogers joined the meeting.

**Enforce-
ment
Concerns**

Mr. Baker referred to a discussion at the April 24th Council meeting regarding enforcement concerns and he reported that he had met with staff from the Constables Office and the Planning and Zoning Department to discuss some the concerns. Mr. Baker noted that there were three items of discussion: Constable enforcement concerns, signs, and the status of the Cubler complaint in Oak Orchard.

Constable Enforcement Concerns

- 1. Currently, summons must be delivered personally. The Constables Office would like to send the summons through the postal service and by posting the notice on the door. It is difficult to personally deliver notices to property owners who reside out of state.**
- 2. The Constables Office would like to change fines for violations from \$100 per day to \$100 per day with a \$500 minimum, with fines being cumulative. JP Court currently requires constables to prosecute for each \$100 fine on a daily basis, which is not feasible.**
- 3. The Constables Office suggests not providing building permits for properties in violation or with outstanding property taxes or sewer bills.**
- 4. The Constable’s Office suggests placing a lien on other property, such as land, to cover the cost of disposing of or demolishing dilapidated or abandoned homes, including manufactured homes.**
- 5. The Constables feel that they should not have the right to remove items they consider trash from property, as allowed by County Code. The Constables Office would like to have the Code changed to require a Court Order to do this.**
- 6. The Constables Office suggests charging a permit fee to remove old manufactured homes for demolition or to be moved to another site. The permit would also enable the County to track the old home.**

**Enforce-
ment
Concerns
(continued)**

7. Other concerns:

The number of two (2) allowed unregistered vehicles per property could be reduced. This could be changed to allow two (2) unregistered vehicles per property with improvements.

There is currently no provision for boats that are not on trailers. Constables have few complaints in this regard, but there could be some changes based on the size of the boat, or if it is motorized or registered, etc.

Mr. Cole suggested that the fine should be \$100.00 per day, cumulative, with no maximum amount.

In response to questions raised by the Council, Peter Dirks of the Constables Office, stated that the problem is with individual lots, not mobile home parks.

Mr. Dirks suggested that the fine for violations should be an initial \$500.00 fine and then \$100.00 additional every day thereafter until the violation is corrected.

Ira Hitchens of the Constables Office recommended the removal of Section 80-4 of the County Code, entitled “Removal by County; Recovery of County Expenses”, which gives the Constables Office the right to remove items they consider to be trash from a property. He stated that, without a Court Order, they do not want to remove items from personal property.

Hal Godwin referred to the County’s regulation that only permits two (2) unregistered vehicles per residential property. He reported that the County has been working on a case in a residential area located between Rehoboth and Dewey (in the County’s jurisdiction). He reported that there are three different properties; one property (comprising of 4 small lots with only one lot containing a home) has eight vehicles on it which are unregistered and not in a condition of use; one property has had a blue tarp on the roof for two to three years; and one property has two unregistered cars on it and a porch full of clutter.

Mr. Godwin told the Council that Sussex County is the only county in the State that does not have a National Property Maintenance Code. He asked the Council if they would consider the Code for purpose of setting up property maintenance rules and regulations. Mr. Dukes stated that he would not agree to the acceptance of this Code.

Mr. Godwin suggested that two unregistered vehicles should only be allowed on improved lots, not unimproved lots.

Mr. Griffin noted that the language of the Code is faulty. He referred to one problem - “two currently unregistered or uninspected vehicles owned

**Enforce-
ment
Concerns
(continued)**

by the occupants that do not pose a threat to the occupants' or other persons' health and safety". He noted that, if the vehicles are owned by someone else, they would not count towards the total number of vehicles, and it would have to be proved that the cars are a threat to health and safety.

Mr. Griffin noted that another section of the Code states that a person can have two unregistered or uninspected vehicles as long as they are stored inside of a building.

Mr. Godwin referenced Section 115-191 entitled "Parking and storing vehicles and trailers" which reads that "No more than two automotive vehicles or trailers of any kind or type without current license plates shall be parked or stored on any residentially zoned property other than in completely enclosed buildings." Mr. Godwin stated that just because a vehicle is tagged does not necessary mean that the tag belongs on that vehicle.

Mr. Godwin stated that the Council also needs to consider establishing restrictions on boats and trailers, i.e. a boat with no motor, a boat on a trailer, a boat inside of a building, a boat outside of a building, etc. Mr. Baker noted that there isn't anything in the Code that addresses boats unless they are on trailers.

Mr. Dukes expressed concern about the impact new restrictions may have on farm equipment. Mr. Baker responded that an exemption already exists for farm equipment.

Mr. Griffin commented on the duplications and inconsistencies in the Code relating to enforcement. It was noted that reference to non-existent agencies should be removed from the Code, i.e. the Transfer Station Division.

It was decided that Mr. Griffin, Mr. Baker, and the Constables Office will meet to review the County's Code relating to the issues discussed.

Mr. Baker stated that it was his understanding that the Council agrees to Items 1 through 6 under "Constable Enforcement Concerns", along with some housekeeping issues, i.e. taking out any reference to non-existent agencies and taking out the requirement that unregistered vehicles must be proven to have an adverse effect on health and safety. It was noted that the Council also agreed to Item No. 7, however; it was the consensus of the Council that vehicles should be addressed by zoning classification.

Mr. Baker and Mr. Griffin were directed to report back to the Council within three months; at that time, proposed ordinance changes will be presented for the Council's consideration.

**Enforcement
Concerns
(continued)**

Mr. Baker reported that Bud Rickard, Operations Coordinator (Planning and Zoning Department) has been working with Lawrence Lank, Director of Planning and Zoning, and Richard Berl, Attorney, to determine the County's authority to remove illegal "bandit" signs and directional signs. "Bandit" signs are considered to be the small roadside signs advertising new developments and things of that nature and the signs that appear on Fridays and which are removed on Sundays. Mr. Lank stated that, based on the County Code, the Zoning Inspectors do not have the authority to remove the signs. Mr. Baker explained that in accordance with existing County ordinances, if a sign is located on private property, the County must give 30-days written notice to the property owner before the sign can be removed.

Mr. Griffin stated that the County should not take action against a property owner when signs are placed on a property without permission.

Mr. Rogers stated that the County's policy on signs should mirror the State's policy; State Law states that the advertiser will be fined \$25.00 per sign and \$25.00 to get the sign back.

It was noted that the State would get involved if the signs are placed in the State right-of-way and the County would get involved if the signs are placed on private property.

Mr. Lank advised that Mr. Berl is working on a draft ordinance which would mirror that of the State's and which would include a reference to private property.

Mr. Cole questioned what the County is doing regarding flashing signs. Mr. Lank responded that the existing ordinances are out of date and need to be amended. He stated that they have been acquiring information from other counties. Mr. Rogers noted that State legislation has been proposed regarding this issue.

Mr. Lank advised that they are looking at all issues related to signs for the purpose of updating the Code. He noted that Mr. Berl is preparing a draft ordinance prepared in the near future.

**Discussion
on a Draft
Ordinance
Related to
Increased
Density in
AR-1
Districts**

Mr. Baker presented a draft ordinance entitled "**AN ORDINANCE TO AMEND CHAPTER 115 SECTION 22 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF DENSITY FOR MULTIFAMILY DWELLING STRUCTURES AND/OR TOWNHOUSES AND/OR TOWNHOMES IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE ACQUISITION AND PRESERVATION OF OPEN SPACE AND/OR ACTIVE AND/OR PASSIVE RECREATION AREAS**". He explained that this ordinance would apply to properties in

Discussion (continued)	<p>AR-1 Districts that are within growth areas, which are Town Centers, Developing Areas and Environmentally Sensitive Developing Areas. This amendment would prohibit multifamily dwelling units and/or town house and/or town home units in AR-1 Districts outside of the Comprehensive Plan Growth Areas, and allows the County to consider approving said units, with a density bonus as a Conditional Use. There would be a maximum of 4 units per acre; a requirement to provide 40 percent open space within the development; and a requirement to provide a vegetated buffer of not less than 75 feet. In accordance with the ordinance amendment, the Council and/or County Administrator may consider and authorize an expedited review of a Conditional Use application. In addition, the developer shall proffer a development fee per unit for every unit in excess of 2 units per acre (in accordance with Ordinance No. 1842). That fee is currently \$15,000 except in the Environmentally Sensitive Developing Area, where it is \$20,000. These funds would be used by the County for open space or recreation areas, approved by the Council with a four-fifths super-majority vote. Mr. Phillips advised that he has spoke with the County's Land Use Consultant, URDC, and that some of their suggestions have been incorporated in the draft ordinance.</p>
Introduction of Proposed Zoning Ordinance	<p>Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 SECTION 22 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE IN DENSITY FOR MULTIFAMILY DWELLING STRUCTURES AND/OR TOWNHOUSES AND/OR TOWNHOMES IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE ACQUISITION AND PRESERVATION OF OPEN SPACE AND/OR ACTIVE AND/OR PASSIVE RECREATION AREAS”. The Proposed Ordinance will be advertised for Public Hearing.</p>
Adminis- trator's Report	<p>Mr. Baker read the following information in his Administrator's Report:</p> <ol style="list-style-type: none"><p><u>9-1-1 Awareness Day – May 2, 2007</u></p><p>On Wednesday, May 2, 2007 from 9:00 a.m. to 3:00 p.m. at the Sussex County Emergency Operations Center, the 9-1-1 Awareness Day Program will occur. This year the program will target fifth grade students and will include safety booths regarding fire, medical, highway safety, electric hazards, and law enforcement. County and State dispatchers will also provide a tour. Attached is information regarding this beneficial program.</p><p><u>Proposed Angola Neck Sanitary Sewer District – Public Hearing</u></p><p>The Sussex County Engineering Department will be conducting a Public Hearing at the Millsboro Volunteer Fire Hall, 109 East State Street, Millsboro, Delaware, on Saturday, May 5, 2007, at 9:00 a.m.</p>

Adminis-
trator's
Report
(continued)

The purpose of the hearing is to establish the boundaries of the proposed Angola Neck Sanitary Sewer District.

3. Southern Living – Milton Article

Attached is a copy of an article about Milton, Delaware, in the May 2007 Southern Living magazine. On the front page of the article is a picture of the Milton Library.

State
Planning
Grant

Mr. Godwin reminded the Council that, at the April 17th Council meeting, he announced that an application had been submitted to the State Planning Office, signed by the Council President, for a \$10,000 grant; however, a Resolution adopted by the County Council is also required.

At the April 17th meeting, Councilmembers expressed concern about stipulations or “strings” attached to the funding and no action was taken.

Mr. Godwin reported that he received a written response from Bryan Hall, State Planner, clarifying the County Council's concerns regarding the Grant Application request for \$10,000.00 in support of the 2008 Comprehensive Land Use Plan Update. In his letter, Mr. Hall stated that it was his understanding that the “Council is concerned that if state monies are used to support the ongoing project, then the State may use this as an opportunity to re-write the proposed Sussex County Plan Update to reflect the concerns of the state and not those of Sussex County.” He further stated that he assures the County Council that this is not the case. He his letter, Mr. Hall noted that “The state reserves only one right “if an application is approved for funding and the applicant fails to produce a completed product, in this case a certified comprehensive plan, then this office will not fund the grant award.”

Mr. Phillips commented that this funding has been set aside for governments that need funding and that there are many municipalities who need the funding more than the County. He stated that he would prefer that the County yield the funds to one of those municipalities. Mr. Dukes agreed with Mr. Phillips.

M 261 07
Adopt
R 011 07

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 011 07 entitled “RESOLUTION REQUESTING FINANCIAL ASSISTANCE FROM THE STATE OF DELAWARE FOR THE REVIEW AND UPDATE OF THE SUSSEX COUNTY COMPREHENSIVE PLAN”.

Motion Adopted: 3 Yeas, 2 Nays.

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

Local Law Enforcement Grant Requests	Mr. Godwin, presented the following requests for funding through the Revenue Sharing for Local Law Enforcement Grant Program:		
	Bridgeville	\$25,000.00	Police Vehicle & Equipment
	Fenwick Island	\$25,000.00	Police Vehicle & Equipment
M 262 07 Approve Local Law Enforcement Grants	A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the Local Law Enforcement Grants, as presented.		
	Motion Adopted:	5 Yeas.	
	Vote by Roll Call:	Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea	
Tingle Road Pumping Station No. 43/ Change Order No. 1	Steve Hudson, Director of Technical Engineering, presented Change Order No. 1 to the Tingle Road Pumping Station (No. 43) Improvements Project in the Ocean View Sanitary Sewer District. He advised that the County has contracted with Zober Contracting Services, Inc. to perform a total rebuild of the station. This Change Order covers (1) the elimination of the anticipated need to perform concrete surface repairs (a credit of \$15,000) and (2) the increased cost of providing additional services including grout injection sealing for leaking wall pipe penetration and labor/equipment/materials for replacement of existing deteriorated pipe sections (\$14,628.94). The amount of the Contract will be decreased through this Change Order by the sum of \$371.06.		
	Mr. Cole referred to labor costs and questioned why they are so high (labor - 3 men - \$40 x 20 hours and a Superintendent - \$60 x 10 hours).		
M 263 07 Defer Action/ Pumping Station Change Order	A Motion was made by Mr. Phillips, seconded by Mr. Cole, to defer action for one week to get clarification on the labor rates.		
	Motion Denied:	3 Nays, 2 Yeas.	
	Vote by Roll Call:	Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Nay; Mr. Jones, Nay; Mr. Dukes, Nay	
M 264 07 Approve Change Order/ Tingle Road Pumping Station	A Motion was made by Mr. Jones, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department and its Consultant, Whitman, Requardt and Associates, that the Sussex County Council approves Change Order No. 1 for Sussex County Project No. 06-05, Tingle Road Pumping Station (No. 43) Improvements, which decreases the Contract amount by \$371.06 for a new total of \$672,405.94.		
	Motion Adopted:	4 Yeas, 1 Abstention.	

M 264 07
(continued)

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

OOSD Boundaries

Rob Davis, Utility Planning Technician, presented a Proposed Resolution to adopt the boundaries of the Oak Orchard Sanitary Sewer District, Expansion Area No. 1, as proposed on April 24, 2007.

Mr. Baker noted that the Proposal does not include the Captains Grant Subdivision and does not include the properties owned by Maurice Mosley.

**M 265 07
Adopt
R 013 07/
OOSD
Expansion
Area No. 1
Boundaries**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 013 07 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE OAK ORCHARD SANITARY SEWER DISTRICT TO INCLUDE PARCELS OF LAND ALONG STATE OF DELAWARE ROUTES 24 AND 5, INCLUDING THE COMMUNITIES OF DRIFTWOOD VILLAGE, RIVER VILLAGE, THE MEADOWS, OAK MEADOWS AND OAK ORCHARD WEST PARK, BEING SITUATE IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas.

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

Fenwick Island SSD/ Waters Run/ Request to Prepare and Post Notices

John Ashman, Director of Utility Planning, presented (1) a request to prepare and post notices for an expansion to the Fenwick Island Sanitary Sewer District to include Waters Run, Magnolia Shores and other parcels along County Road 381 (Old Mill Bridge Road) and (2) a Proposed Resolution establishing the boundaries for the Proposed Johnsons Corner Sanitary Sewer District. Mr. Ashman advised that he was presenting the two agenda items together because the original boundaries for the Proposed Johnsons Corner Sanitary Sewer District included the Waters Run/Magnolia Shores area. He advised that, on January 2, 2007, the Waters Run project asked to be excluded from the Proposed Johnsons Corner Sanitary Sewer District and requested annexation into the Fenwick Island Sanitary Sewer District. The reasons for this request are: (1) they would like to move forward at a faster schedule and (2) they are concerned that the Johnsons Corner referendum might not pass. Mr. Ashman reported that the Developer contacted landowners in Magnolia Shores and surrounding areas and copies of signed letters have been received from the landowners stating their wish to be included in the extension of the boundaries of the Fenwick Island Sanitary Sewer District. Mr. Ashman reported that the project will be responsible for regional infrastructure to serve the parcels included in the annexation and construction of a regional force main down County Road 381. The Planning and Zoning Commission has deferred action on the project until they can confirm that the project will be part of the sewer district. Mr. Ashman noted that the annexation

(continued) would not negatively impact the Proposed Johnsons Corner Sanitary Sewer District.

M 266 07
Authorize
Posting of
Notices/
Fenwick
Island
SSD/
Waters
Run

A Motion was made by Mr. Jones, seconded by Mr. Cole, that the Sussex County Council authorizes the Sussex County Engineering Department to prepare and post notices for the extension of the Fenwick Island Sanitary Sewer District boundary to include the parcels owned by B & T Lynch Family Partnership LLC (to be known as Waters Run), Magnolia Shores and other parcels along County Road 381.

Motion Adopted: 5 Yeas.

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

Proposed
Johnson's
Corner SSD
Boundaries

Mr. Ashman reported that a public hearing was held on the proposed boundaries of the Johnson's Corner Sanitary Sewer District (JCSSD) on January 27, 2007. (On September 4, 2006, the County Council authorized the Engineering Department to prepare and post notices for this area.) Mr. Ashman advised that the Engineering Department had a standing request to include a subdivision known as The Hamlet at Derrickson Pond into a sewer district. Mr. Ashman stated that the Engineering Department has decided to include them in the JCSSD. As previously noted, Waters Run requested exclusion from the JCSSD. Mr. Ashman pointed out other properties that are proposed to be included in the sewer district, some of which are currently farmland.

Mr. Cole questioned the number of vacant lots included in the proposal. He stated that the County should not be extending sewer to unimproved lots; that the area is not in a Development District; and that the property owners are speculating and they should not be allowed to request inclusion in a District until they make an official subdivision request. Mr. Cole stated that this policy would encourage more development; that it is not smart growth; and that it is poor planning.

Russell Archut, Assistant County Engineer, stated that the parcels included in the proposal are contiguous and can be served by the proposed system, as it is expanded.

M 267 07
Defer
Action/
Proposed
Johnsons
Corner
SSD

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on the Proposed Resolution establishing the boundaries for the Proposed Johnsons Corner Sanitary Sewer District for additional information on the parcels which are proposed to be included in the District, including a map showing which parcels have official development plans.

Motion Denied: 3 Nays, 2 Yeas.

M 267 07 Vote by Roll Call:

(continued)

**Mr. Cole, Yea; Mr. Phillips, Nay;
Mr. Rogers, Yea; Mr. Jones, Nay;
Mr. Dukes, Nay**

M 268 07 **A Motion was made by Mr. Phillips, seconded by Mr. Jones, to accept the**
Accept **boundaries of the Proposed Johnsons Corner Sanitary Sewer District.**

Motion Adopted: 4 Yeas, 1 Nay.

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

M 269 07 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt
Adopt Resolution No. R 014 07 entitled “DISTRICT BOUNDARIES FOR THE
R 014 07/ PROPOSED JOHNSON’S CORNER SANITARY SEWER DISTRICT”.

Motion Adopted: 4 Yeas, 1 Nay.

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

Mr. Ashman reported that a public meeting will be held on June 21, 2007 and a referendum will be held on July 21, 2007.

Grant Requests **Mrs. Webb presented grant requests for the Council's consideration.**

Bernice Edwards of First State Community Action Agency was present to provide details on their request for funding for a Work Group Camp Project which will help low-income, disabled and elderly people with housing repair needs.

M 270 07 Community Investment Grant	A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$15,000 (\$5,000 from County Council grants and \$2,000 from each Councilman's Community Investment Grant Account) to First State Community Action Agency for the Group Work Camp housing repair project.
--------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Motion Adopted: 5 Yeas.

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

M 271 07 Youth Activity	A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$200.00 from Mr. Jones' Youth Activity Grant Account to Boy Scouts of America Troop 95 for Kirby Mills' Eagle Scout Project.
----------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Motion Adopted: 5 Yeas.

M 271 07
(continued)

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

M 272 07
Community
Investment
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$5,000.00 from Mr. Phillips' Community Investment Grant Account to the Town of Millsboro for community improvements.

Motion Adopted: 5 Yeas.

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

M 273 07
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$250.00 from Mr. Jones' Councilmanic Grant Account to the Town of Bridgeville for their July 4th fireworks display.

Motion Adopted: 5 Yeas.

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

M 274 07
Youth
Activity
Grant

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$375.00 (\$75.00 from each Youth Activity Grant Account) to the Sussex Chix Softball Team for operating expenses.

Motion Adopted: 5 Yeas.

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

M 275 07
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Beach Film Society for 2007 Film Festival.

Motion Adopted: 5 Yeas.

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

M 276 07
Youth
Activity
Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,000.00 (\$500.00 each from Mr. Cole's and Mr. Phillips' Youth Activity Grant Accounts) to the Lower Sussex Little League for operating expenses.

Motion Adopted: 5 Yeas.

M 276 07
(continued)

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

M 277 07
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$500.00 from Mr. Rogers' Councilmanic Grant Account to the Memorial Volunteer Fire Co. for their July 4th Celebration.

Motion Adopted: 5 Yeas.

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

Additional Business/ Complaint/ Lots in Rehoboth

Under *Additional Business*, Helene Guilfoyl of James A. Street in Rehoboth addressed Council and told them about a lot located near her that has been deteriorating; on the lot is piles of rubbish, old tires, abandoned vehicles, tall grass, twisted metal, a pavilion from the Rehoboth Beach boardwalk, an abandoned motor home, various other untagged vehicles, and an overgrown hedge that hangs over the street. Ms. Guilfoyl also informed the Council that across the street is a house that has been under repair for over three years; the roof has been covered with a blue tarp the entire time. She stated that the two properties are in an intensely used residential neighborhood, east of Route One between Dewey and Rehoboth. Ms. Guilfoyl asked the Council to give consideration to the problems and to establish regulations that would alleviate this situation.

Additional Business/State Level 4 Areas

Under *Additional Business*, Daniel Kramer suggested that there should no longer be a State Level 4 Area in Sussex County and that the entire area should be a Development District. He stated that this would eliminate the State's ability, under proposed legislation, to take Realty Transfer Tax funds away from the County. Mr. Kramer stated that the County has the authority to make this change.

Student Introduction

Mr. Dukes introduced Brian Smith, who is currently working in the Sheriff's Department for on-the-job training. Mr. Smith is enrolled in the Criminal Justice Program at Sussex Technical High School.

M 278 07
Recess

At 12:21 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Dukes called the Council back into session at 1:44 p.m.

**Public
Hearing/
C/U
No. 1684**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR USED CAR SALES AND PRODUCE AND LANDSCAPING BUSINESS WITH SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.508

**Public
Hearing/
C/U**

**No. 1684
(continued)**

ACRES, MORE OR LESS” (Conditional Use No. 1684) filed on behalf of Francis B. Prekup, Jr.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on April 12, 2007 at which time they deferred action; on April 26, 2007 the Commission recommended that the application be denied.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 12 and April 26, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

The Council found that no one was present on behalf of the application and further action was tabled until the end of the meeting.

**Public
Hearing
(C/U
No. 1685)**

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 EXPANSION OF A CONCRETE BLOCK PLANT, CONCRETE PLANT, CONCRETE/BLOCK CRUSHER, AND FUTURE ASPHALT PLANT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 10.00 ACRES, MORE OR LESS” (Conditional Use No. 1685) filed on behalf of Parker Block Co., Inc.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on April 12, 2007 at which time they deferred action; on April 26, 2007 the Commission recommended that the application be approved with the following conditions:

- 1. Any security lights shall only be installed so that they do not shine on any neighboring properties.**
- 2. The site plan shall be subject to approval of the Planning and Zoning Commission.**
- 3. The future asphalt and concrete plants shall require a Special Use Exception from the County Board of Adjustment.**
- 4. There shall be a landscaped berm along the entire perimeter of the Conditional Use site. The size and location of the berm and the type of landscaping shall be shown on the Final Site Plan.**

(See the minutes of the meeting of the Planning and Zoning Commission dated April 12 and April 26, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

**Public
Hearing
(C/U
No. 1685)
(continued)**

Mr. Lank read a summary of the Commission's Public Hearing. The summary was admitted as part of the Council's record.

Mr. Lank clarified that the application is for the expansion of the concrete block plant and the concrete block crusher. The Conditional Use would not permit a new concrete plant or a new asphalt plant, since approval from the Board of Adjustment would be required.

Mr. Lank stated that the Council may wish to question the Applicant about Proposed Condition No. 4 requiring a "landscaped berm along the entire perimeter". Mr. Lank stated that the Council may want the Applicant's opinion on whether or not there should be a berm between the existing facility and the proposed expansion. Mr. Lank stated that he believes the intent was for the boundaries of the ten acres (the west, south and east sides of the property).

Rex Timmons was present on behalf of the application. He stated that, in the future, he plans to go to the Board of Adjustment for a new concrete plant or new asphalt plant. Mr. Timmons stated that the application was made due to the amount of growth the business has experienced; that the existing plant runs all the time; that an additional plant would allow them to eliminate the night shift; that they do not plan to crush block 24-hours a day; that the crusher is a portable operation; and that he would agree to time restrictions on the crusher operations.

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

Mr. Griffin advised that the title of the ordinance should be amended to remove the reference to the concrete plant and the future asphalt plant.

**M 279 07
Adopt
Ordinance
No. 1898
(C/U
No. 1685)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1898 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXPANSION OF A CONCRETE BLOCK PLANT AND CONCRETE/BLOCK CRUSHER, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 10.00 ACRES, MORE OR LESS" (Conditional Use No. 1685) filed on behalf of Parker Block Co., Inc., with the amended Ordinance Title and with the following conditions:

- 1. Any security lights shall only be installed so that they do not shine on any neighboring properties.**
- 2. The site plan shall be subject to approval of the Planning and Zoning Commission.**
- 3. The future asphalt and concrete plants shall require a Special Use Exception from the County Board of Adjustment.**
- 4. There shall be a landscaped berm along the perimeter of the Conditional Use site, except for the side adjacent to the existing site.**

**M 279 07
Adopt
Ordinance
No. 1898
(continued)**

The location of the 4 foot high berm and the type of landscaping shall be shown on the Final Site Plan.

- 5. Concrete crusher activities shall be limited to Monday through Friday, 9:00 a.m. to 5:00 p.m.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1737)**

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 PROFESSIONAL OFFICE COMPLEX AND SOME RETAIL SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS” (Conditional Use No. 1737) filed on behalf of Terrance Babbie.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on April 12, 2007 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 12, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

Mr. Lank distributed a Project Book which was provided by the Applicant.

Robert Gibbs, Attorney, was present with Terrance Babbie.

Mr. Gibbs asked that the record of Change of Zone No. 1604 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS”, filed on behalf of Terrance Babbie, be made a part of the record of this Public Hearing.

Mr. Gibbs reported that the application started out as a change of zone application for B-1 zoning, the application was withdrawn, and this conditional use application filed; that the application is for

**Public
Hearing
(C/U
No. 1737)
(continued)**

professional/business offices and home-related retail and service businesses within the Agricultural Residential District; that the name of the project would be Heritage Park; that five two-story units are proposed; that no automobile parking lots, garages, used or new car lots, automobile repair shops, filling stations, fast food or other restaurants, laundromats or funeral homes would be permitted; that dumpsters would be screened from view and any public roadways; that any security lighting shall shine downward and not towards neighbors or public roads; that the site is located in the Development District; that the proposal would not create a negligible impact on the traffic in the area; that one of the few people who objected to the project (Tom Lynch, a neighbor) has decided to sell his property to the Applicant and it is under contract; that the Applicant would like the option of illuminating the sign(s) and that he would like to place parallel matching signs at the entrance; that there would be no outside storage; that the Applicant would be the builder and primary occupant of the Center; that the Applicant has letters of intent from a law firm, a CPA firm, an insurance agency and a photographer; that it will be a first class business park; that the intent is that the project will blend with the architecture of the area; and that the project should have a positive impact on the neighborhood.

Mr. Babbie stated that he proposes only professional offices but he also asked for retail and service businesses because he is unsure what the demand will be; that the buildings will be somewhat smaller than shown on the original plan due to the requirements for parking, sprinklers, septic, etc.; that they are proposing a 6-foot fence at the rear of the property; and that the dumpster area will be fenced.

There were no public comments in support of the application.

Jeff Wells stated that he is not concerned with Mr. Babbie's project impacting his property; rather, he is concerned about the impact his property will have on Mr. Babbie's project. He stated that he operates a farm directly across from the Applicant's property; that he has 500 cows and 50,000 chickens; and that it stinks 365 days a year. Mr. Wells stated that he does not want to be harassed with nuisance lawsuits in the future. Mr. Wells suggested that potential tenants should be told up-front that the area is completely surrounded by agriculture and that there will be odors associated with the agricultural uses.

Connie Lynch spoke and expressed the same concerns as Mr. Wells. She also stated that traffic is already a problem; that more offices and retail shops will only create more traffic; that poultry and animal health is a concern due to the close proximity of these properties; and that this type of business does not belong in the area.

Mr. Griffin offered a suggestion that the following be included in the conditions, pending approval of the application by the Council - "The Applicant shall be required to insert in his leases a prominent notice that

(continued) the property on both sides of Route 16 is used for agricultural purposes which involves the nuisance factors of noise, dust and odors commonly associated with agricultural uses.”.
The Public Hearing was closed.

Mr. Jones asked that action be deferred for one week.

M 280 07 A Motion was made by Mr. Phillips, seconded by Mr. Jones, to defer action
Defer on Conditional Use No. 1737, filed on behalf of Terrance Babbie.

Action on
C/U
No. 1737

Motion Adopted: 5 Yeas.

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

Resume The Council resumed the Public Hearing on Conditional Use No. 1684, the application of Francis B. Prekup, Jr.

The Council found that no one was present on behalf of the application.

Public Mr. Lank, Director of Planning and Zoning, stated that the Applicant was
Hearing made aware of both Public Hearings and the fact that he was required to
(C/U attend both hearings.

No. 1684)

The Public Hearing was closed.

M 281 07 A Motion was made by Mr. Rogers, seconded by Mr. Cole, to Adopt the
Adopt Proposed Ordinance entitled “AN ORDINANCE TO GRANT A
Proposed CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL
Ordinance DISTRICT FOR USED CAR SALES AND PRODUCE AND
(C/U LANDSCAPING BUSINESS WITH SALES TO BE LOCATED ON A
No. 1684) CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL
HUNDRED, SUSSEX COUNTY, CONTAINING 1.508 ACRES, MORE
OR LESS” (Conditional Use No. 1684) filed on behalf of Francis B. Prekup,
Jr.

Motion Denied: 4 Nays, 1 Yea.

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

Findings The Council denied the application due to the lack of a record of support.

M 282 07 At 2:50 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Jones, to
Adjourn adjourn. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council