



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 13, 2006

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 13, 2006 at 6:30 p.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
Hal Godwin	Administrative Assistant
James D. Griffin	County Attorney

Recommen- dation to Amend Agenda

Mr. Griffin requested that Council consider changing the order of the second and third items on the Agenda so that "Approval of Agenda" would be first, followed by "Executive Session"; that the Executive Sessions be changed so that the Executive Session scheduled at the beginning of the meeting be held to discuss personnel (to accommodate the schedule of the Personnel Director); that a second Executive Session be held to discuss pending litigation at 7:45 p.m., prior to the 8:00 Public Hearing, and that the Executive Session scheduled at the end of the meeting be held to discuss pending litigation.

M 411 06 Amend and Approve Agenda

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the Agenda, with the amendments proposed by the County Attorney.

Motion Adopted: 5 Yea.

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

M 412 06 Go Into Executive

At 6:40 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to go into Executive Session for the purpose of discussing personnel.

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 Session (continued)	An Executive Session of the Sussex County Council was held in the Conference Room on the Third Floor of the Sussex County Administrative Office Building. The purpose of the Executive Session was to discuss personnel issues. The Executive Session concluded at 6:57 p.m.
M 413 06 Come Out of Executive Session and Reconvene Regular Session	At 7:00 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Jones, to come out of Executive Session and reconvene the Regular Session of the Sussex County Council.
	Motion Adopted: 5 Yea.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Jones, Yea; Mr. Rogers, Yea
M 414 06 Approve Minutes	A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the minutes of May 2, 2006.
	Motion Adopted: 5 Yea.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Jones, Yea; Mr. Rogers, Yea
Corre- spondence	Mr. Griffin read the following correspondence:
	SUSSEX CENTRAL POP WARNER, GEORGETOWN, DELAWARE. RE: Letter in appreciation of Council's donation.
	WILLIAM S. TOPPING, CHAIRMAN, SUSSEX COUNTY CHIEFS COUNCIL, AND CHIEF OF POLICE, GEORGETOWN POLICE DEPARTMENT, GEORGETOWN, DELAWARE.
	RE: Statement approved for release at the Sussex County Chief's Council on May 30, 2006: "The Sussex County Chiefs Council has voted to censure the actions of the Sussex County Sheriff as being counter productive to Sussex County law enforcement and public safety interest by overstepping his authority in an attempt to conduct law enforcement activities in Sussex County."
	BEATRICE RUSSELL.
	RE: Letter in appreciation of improvements made to her home which were made possible by the Community Development Office

BURTON MESSICK, PRESIDENT, SUSSEX COUNTY FARM BUREAU, MILTON, DELAWARE.

RE: Letter restating the Farm Bureau's position of protecting individual property rights.

MARK SKIDMORE, PRESIDENT, SUSSEX CENTRAL POP WARNER, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Council's donation.

**Adminis-
trator's
Report**

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

1. Beneficial Acceptance

The Engineering Department granted Beneficial Acceptance to Creekside, Agreement No. 327, on June 5, 2006. The developer is Caldera Properties, L.P., and the project is located on County Road 349, approximately 600 feet from Route 26, in the Millville Sanitary Sewer District, consisting of 145 multi-family homes. Included with this report is a fact sheet on the project.

2. Holly Oak Suburban Community Improvements Project

The election for the Holly Oak Suburban Community Improvements Project took place on Saturday, June 10, 2006, at the Inland Bays Regional Wastewater Facility. The project was passed with a vote of 49 in favor and one against.

**Wastewater
Agreement**

Mr. Godwin, Administrative Assistant, presented a wastewater agreement for the Council's consideration.

**M 415 06
Execute
Wastewater
Agreements/
Hopkins
Pettyjohn
Subdivision**

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. 446-1 (offsite), that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and ADC Builders, for wastewater facilities to be constructed in Hopkins Pettyjohn Subdivision, 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**

Requests

Mr. Baker presented grant requests for the Council's consideration.

**M 416 06
Community
Improve-**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$2,250.00 (\$1,500.00 from Mr. Dukes' Community Improvement Grant Account; \$500.00 from Mr. Jones' Community Improvement Grant

ment Account; and \$250.00 from Mr. Phillips' Councilmanic Grant Account) to the Seaford Mission, Inc. for building construction.

Motion Adopted: 5 Yea.

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

M 417 06	A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$300.00 (\$75.00 each from Mr. Dukes', Mr. Jones', Mr. Phillips', and Mr. Rogers' Councilmanic Grant Accounts) to the Georgetown Historical Society for the Annual Carriage Show.
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Motion Adopted: 5 Yea.

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

M 418 06 Community Improve- ment Grant	A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$2,500.00 from Mr. Rogers' Community Improvement Grant Account to the Fort Miles Historical Association for their membership drive to help fund restoration and maintenance projects.
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Motion Adopted: 5 Yea.

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

M 419 06 Youth Activity Grant	A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$1,000.00 from Mr. Rogers' Youth Activity Grant Account to the Lewes Little League for operating expenses.
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Motion Adopted: 5 Yea.

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

M 420 06	A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give
Council-	\$500.00 (\$250.00 each from Mr. Dukes' and Mr. Phillips' Councilmanic
manic	Grant Accounts) to New Zion United Methodist Church for community
Grant	outreach events.

Motion Adopted: 5 Yea.

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

Mr. Rogers, Yea

Additional Business	Under <i>Additional Business</i>, Dan Kramer questioned Council’s donations to churches.
Order of Agenda (continued)	At 7:13 p.m., it was noted that the next item on the Agenda was Public Hearings, scheduled for 7:30 p.m. It was also noted that the Public Hearings could not be held prior to the time advertised. For this reason, it was suggested that the Council go into Executive Session.
M 421 06 Approve Time of Executive Session	At 7:14 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the Agenda to allow the Council to go into Executive Session by moving the 7:45 p.m. agenda item entitled “Executive Session – Pending Litigation” to 7:15 p.m. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Jones, Yea; Mr. Rogers, Yea
M 422 06 Go into Executive Session	At 7:15 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to go into Executive Session for the purpose of discussing 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
Executive Session	At 7:15 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing pending litigation. The Executive Session concluded at 7:38 p.m.
M 423 06 Come out of Executive Session/ Reconvene Regular Session	At 7:39 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session. 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. 1656	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 AND A C-1 GENERAL COMMERCIAL DISTRICT FOR THE GRINDING OF VEGETATIVE MATERIAL AND MULCH STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN

DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 20.88 ACRES, MORE OR LESS” (Conditional Use No. 1656) filed on behalf of M. L. Joseph Construction.

The Planning and Zoning Commission held a Public Hearing on this application on May 25, 2006 at which time they recommended that the application be approved with six conditions.

**Public
Hearing
C/U
No. 1656
(continued)**

(See the minutes of the meeting of the Planning and Zoning Commission dated May 25, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission and the Commission’s recommendation of approval.)

Mr. Lank, 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.

A packet of information regarding the application was distributed (the same packet received by the Commission).

Mr. Lank reported that a letter was received from Edward J. Kaye Construction, Inc., dated May 23, 2006 which stated that he proposes to grind and haul material off-site as needed for projects on Route 113 in Georgetown.

The Council found that J.C. Owens of Design Consultants Group, and Kenneth Adams, President of M. L. Joseph Construction Company, were present. They stated that the conditional use is for the storing, grinding, and recycling stumps and tree material from commercial and residential lot clearing activities; that the site has been used for a borrow pit, materials storage, equipment storage, fueling station and weigh station for Melvin L. Joseph Construction Company activities; that material would be brought to the site until such time that grinding would occur; that the material would be stored in an area approximately four acres in size; that they expect the site to handle four to six months of recyclable material and that grinding would occur approximately every four to six months; that it would take approximately one week to grind and haul the material off-site; that the grinding and hauling operation would be handled through the Edward Kaye Construction Company; that the hours of operation for accepting recyclable material would be Monday through Friday, 6:00 a.m. – 6:00 p.m. and Saturday 6:00 a.m. – 12:00 noon; that all grinding operations would be from 7:00 a.m. to 5:00 p.m. Monday through Friday only; that the existing entrance could handle the truck traffic; and that there are existing scales on the site.

Mr. Cole stated that there would be a potential for complaints and he suggested some type of buffering to reduce the grinding noise in the area, i.e. a berm.

Mr. Adams responded that the grinding operation would take place in the pit area. He stated that there is stone storage in the front of the pit area and wooded buffers on two sides.

Mr. Cole suggested that a condition be added that the grinding would have to occur in a below-grade area.

**M 424 06
Add
Condition
to C/U
No. 1656
(Motion
Denied)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to add a condition that “The site plan shall be subject to review and approval by the Planning and Zoning Commission. During the site plan review, the Commission may require the Applicant to provide some method of buffering noise from adjacent properties.”

Motion Denied: 3 Nay, 2 Yea.

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

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

**M 425 06
Adopt
Ordinance
No. 1851
(C/U
No. 1656)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1851 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR THE GRINDING OF VEGETATIVE MATERIAL AND MULCH STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 20.88 ACRES, MORE OR LESS” (Conditional Use No. 1656) filed on behalf of M. L. Joseph Construction, with the following conditions:

1. The hours of operation will be from 6:00 a.m. to 6:00 p.m. Monday through Friday and 6:00 a.m. to 12:00 noon on Saturdays for the acceptance of materials to be stored.
2. Grinding of materials may be performed from 7:00 a.m. to 5:00 p.m. Monday through Friday, with no grinding on Saturdays.
3. The facility will be closed on Sundays.
4. Only tree stumps and tree materials from clearing activities will be accepted. There shall be no acceptance of construction waste for processing.
5. A dry hydrant will be installed on the north end of the borrow pit for fire protection.
6. The entrance that is currently gated shall continue to be gated when the facility is not in operation.
7. All grinding activities shall occur in the existing pit area.
8. 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. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

**Public
Hearing
C/U
No. 1657**

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 PRODUCE MARKET SALES FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 32.924 ACRES, MORE OR LESS” (Conditional Use No. 1657) filed on behalf of Johnson’s Country Market.

The Planning and Zoning Commission held a Public Hearing on this application on May 25, 2006 at which time they recommended that the application be approved with six conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated May 25, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission and the Commission’s recommendation of approval.)

Mr. Lank, 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 Keith Johnson was present on behalf of the application. He stated that he filed the conditional use application to obtain approval to be in compliance with County regulations so that they can continue to operate their produce market business; that they are a seventh generation farm; that they propose to continue to sell produce that they grow and hope to sell produce and other products raised by others at their produce stand; that they hope to expand their business in the future to include a greenhouse, Christmas trees and Christmas gift items; country crafts, a corn maze, prepared foods, u-pick pumpkins and vegetables; that the revenues from this business will help them to be able to continue farming; and that their farm provides potential open space for their neighborhood. Mr. Johnson expressed concern with two of the conditions proposed by the Planning and Zoning Commission. He stated that they may need to expand the hours as they expand the business and that he would prefer no hour restrictions; however, if a restriction is required, he would prefer 7:00 a.m. until 10:00 p.m., especially during the Fall and Christmas seasons. He noted that they are open seven days a week

Mr. Johnson stated that there is an existing pole light in the parking area which is directed away from the road and provides security for the

customers as well as their property and business. He stated that there may be a need for one or two more lights, possibly another streetlamp style lamp, and that any lights would be aimed away from the road.

Mr. Johnson stated that there is an existing lighted marquis sign on the site, in addition to a 32 square foot sign, that he would like to be able to keep for advertising purposes.

**Public
Hearing
C/U
No. 1657
(continued)**

Mr. Lank stated that only one sign is permitted unless a variance is applied for and approved by the Board of Adjustment. He noted, however; that one 150 foot sign could be permitted. Mr. Lank suggested deleting the condition relating to signs and to let the zoning ordinance prevail on that matter.

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

**M 426 06
Adopt
Ordinance
No. 1852
(C/U
No. 1657)**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1852 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE MARKET SALES FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 32.924 ACRES, MORE OR LESS” (Conditional Use No. 1657) filed on behalf of Johnson’s Country Market, with the following conditions:

1. There shall be no outside storage, other than agricultural products or landscape materials, on the premises. A trash dumpster, which shall be screened from view from neighboring properties, may be allowed.
2. Any security lights shall be directed downward and away from impacting neighboring properties.
3. The applicant shall comply with all DelDOT requirements, including entrance permits. The applicant is urged to relocate the parking spaces outside of the 40-foot front yard setback.
4. The site plan shall be subject to the 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/Z
No. 1594**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5,000 SQUARE FEET,

MORE OR LESS” (Change of Zone No. 1594) filed on behalf of Richard J. Poppleton.

The Planning and Zoning Commission held a Public Hearing on this application on May 25, 2006 at which time they deferred action. On June 8, 2006 the Commission recommended that the application be approved.

**Public
Hearing
C/Z
No. 1594
(continued)**

(See the minutes of the meeting of the Planning and Zoning Commission dated May 25 and June 8, 2006 for additional information on the application, correspondence received, the Public Hearing before the Commission and the Commission’s recommendation of approval.)

Mr. Lank, 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 Richard Poppleton was present.

Mr. Poppleton distributed a packet of information to the Council, which included an explanation of the application, neighborhood information, letters of support and photos of the area.

Mr. Poppleton stated that he proposes to rezone the property back to C-1 General Commercial; that C-1 zoning conforms to the zoning in the neighborhood; that C-1 zoning surrounds the site; that the entire area south of Hebron Road is C-1 General Commercial; that the site was zoned C-1 prior to 1997; that he has received letters of support of his application; that warehousing adjoins his property; that a cell tower is almost immediately adjacent to his site; that two other pole buildings are proposed in the area; that the area has had a lot of commercial construction; that he also owns a vacant lot in the West Rehoboth Subdivision; that approximately 40 sites exist around the site that are zoned C-1 General Commercial; that Envirotech has a warehouse on one of the four lots that were rezoned in 1997; that this 5,000 square foot parcel is only a small part of the area; that he does not believe this site is suitable for residential use; that he would like to have a business on the site but he is unsure what type of business; and that since commercial sites exist all around the parcel, the change of zone would conform with the rest of the area.

It was noted that the use of the referenced Envirotech site has not been verified.

The Council found that no one spoke in support of the application.

Public comments were heard in opposition to the application.

Minnie Smith Burton of West Rehoboth stated that Mr. Poppleton had earlier said that he was going to build a warehouse on the site; that they do

not need any more warehouses in West Rehoboth; that they need other business or homes; that they are trying to build a community for the people of West Rehoboth; that they would like to build playgrounds and affordable homes; and that Mr. Poppleton does not now know what type of business he wants to operate on the site. Ms. Burton presented pictures of the existing warehouses and the West Rehoboth community.

**Public
Hearing
C/Z
No. 1594
(continued)**

Mabel Granke, Board Member of the West Rehoboth Land Trust, stated that Hebron Road represents the “life blood of that community”; that it is the access to the community; that approving commercial zoning would establish a dead area with no community activity; that they are trying to encourage local businesses that would benefit the community; that many uses would be allowed under commercial zoning; that the applicant has no particular plans at the present time; and that their goal is to revitalize the community and provide affordable housing.

Brenda Milburn, Program Director of West Side New Beginnings, stated that improvements have been made to their community, thanks to the Council; that they want West Rehoboth to be seen as a community – with homes, playgrounds, and flowers; and that they do not want a warehouse which would depreciate the community.

Linda Blumner stated that there are fifty to sixty children in the neighborhood; that the children have an immediate need for a playground; that the existing commercial uses are chipping away at the historical community; and that she asks the Council to deny this application and any future applications for commercial uses in the neighborhood.

Roxie Sturgis, Executive Director of West Rehoboth Community Land Trust, stated that they need land to build affordable housing; that they want to save the land and the community; that she encourages the Council to be mindful of any changes to West Rehoboth; and that the applicant is speculating with no specific use in mind.

In response to questions raised by the Council, Mr. Lank stated that, under the current zoning, the applicant could put a single family home on the parcel, he could have a home occupation, or he could apply for a conditional use for a specific use.

**M 427 06
Adopt
Proposed
Ordinance
C/Z
No. 1594
(Motion
Denied)**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5,000 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1594) filed on behalf of Richard J. Poppleton.

Motion Denied: 4 Nay, 1 Yea.

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

**Public
Hearing
Public
Hearing
on Appeal/
Reynolds
Pond, LLC
(Isaacs
Glen)**

A Public Hearing was held on an appeal of the Sussex County Planning and Zoning Commission's decision to deny the application of Reynolds Pond, L.L.C. for the subdivision (cluster development) of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 836.32 acres into 1,630 lots, located at the intersection of Route 30 and Road 227.

Mr. Griffin introduced William Manning and Richard Forsten of Klett Rooney Lieber & Schorling, legal counsel for Reynolds Pond, LLC, who were present to make the presentation on behalf of the applicant.

Mr. Griffin stated that the Sussex County Council is a legislative body and in the context of this Hearing, would be sitting in a quasi-judicial capacity.

Mr. Griffin stated that the Council would hear argument on how the Planning and Zoning Commission may have committed any form of error in rendering its decision on the Reynolds Pond, LLC application, which was that the preliminary subdivision plan for a cluster subdivision be denied. He explained that this is not a new Public Hearing and that it would not be helpful to repeat testimony of the same presentations made before the Planning and Zoning Commission. He further explained that this Public Hearing is for persuasive argument, if it exists, as to why the Commission made an error in its decision.

William Manning stated that it is appropriate in an appellate setting, for the Appellant to have a brief rebuttal and he asked the Council for that opportunity.

Mr. Manning stated the purpose of the Public Hearing is to review a decision made by the Planning and Zoning Commission to reject a cluster option plan presented by Reynolds Pond, LLC, to be known as Isaacs Glen. He stated that Reynolds Pond, LLC has a contract to purchase an 836 acre farm from the Isaacs family. Mr. Manning referred to his letter of April 3, 2006 which was the statement of appeal. He stated that they do not believe the Commission applied the Sussex County Code to this plan; instead it attempted to apply its policy judgments and policy judgments are not legislation; that this plan was denied because of things that are found nowhere in the Code; and that this appeal is not about whether Farmland Preservation is a good or bad idea.

Mr. Manning stated that the plan is for 1,630 units in a clustered residential subdivision on 836 acres; that it complies with the density restriction of two units per acre; that the project would offer swimming pools, athletic fields

Public
Hearing
on Appeal/
Reynolds
Pond, LLC
(Isaacs
Glen)
(continued)

and courts, a community center, parks, nine miles of trails and pathways, dog walks, places reserved for gardens, and 54 acres of lake and pond, which is part of 361 acres of active open space; that the area reserved for stormwater management, including the 361 acres, totals 410 acres (49 percent of the site); that 49 percent of the site will be open, 42 percent of which will be reserved for active recreational use; that there are 152 acres that are forested on this land and 122 acres would be preserved (80 percent); that the plan features substantial improvements to local roads running through the property; that Hummingbird Road would be relocated, straightened out, widened and improved; that the Planning and Zoning Commission commented about the difficulty with cars and farm machinery on Hummingbird Road; that there is a lot of difficulty now; that this “difficulty” would be abated with wider roads and shoulders; that Beideman Road would be improved; that the intersection of Route 30 and Cedar Creek Road would be made safer; that the Isaacs Glen project has been considered by the Council before as an application for a zoning overlay - an RPC Residential Planned Community rezoning; that the Council considered that application and in deliberations decided not to rezone the property, but invited the Applicant to resubmit the application to the Planning and Zoning Commission under the cluster option; that the Council provided for an expedited review of the cluster plan by the Commission; and that an application was filed on October 17, 2005 reflecting the cluster option.

Mr. Manning stated that he believes the State Law requires the review of the plan filed on October 17, 2005; that State Statute provides that the “Commission shall approve or disapprove a plat within 45 days after the submission thereof otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Commission upon demand; that the application was filed on October 17, 2005; that 45 days passed and the applicant demanded the certificate and it was not issued; that no decision was made until March 1, 2006 (approximately 120 days); that he believes that they had a right after the 45 day period expired to have the plan approved automatically without further deliberation; and that it is a legal issue. Mr. Manning noted that the Planning and Zoning Commission held the Public Hearing on January 12, 2006 and the decision was made on March 1, 2006. The Commission voted 4-1 to reject the preliminary plan.

Mr. Manning referred to the Commission’s letter of March 6, 2006 which explains the reasons for its decision. Mr. Manning reviewed and commented on each of the reasons and explained “why none of those reasons provide a lawful basis to turn this plan down”; that in each test, the Commission did one of two things, it either applied criteria to this plan that cannot be found in the Sussex County Code or it made judgments that it had no record to make; and that in all cases, the reasons offered by the Commission, are not legally sustainable.

Mr. Manning stated that the residential development of the 836 acres is

Public
Hearing
on Appeal/
Reynolds
Pond, LLC
(Isaacs
Glen)
(continued)

permitted under the Zoning and Subdivision Codes of Sussex County; that the Cluster Ordinance asks the Commission to make a judgment as to whether the cluster plan is better than a non-cluster plan; that you cannot conclude that the proposed plan is not superior to a hypothetical plan that does not have the cluster features; that the Commission could not make that judgment based on other cluster plans that they have approved; that when reviewing a subdivision plan, a Planning Commission must review the plan based on the specific requirements of the Subdivision and Zoning Codes; that if the plan conforms with the legal requirements, the plan must be approved; that the Commission is not free to reject a plan on the basis that it conflicts with some general purpose language appearing in the Code, i.e. “not in keeping with the character of the neighborhood”; that those general, “standardless” provisions in the Subdivision and Zoning Codes are not enough, they are not an appropriate criteria; that the Council has created specific criteria by which cluster option plans must be judged; that he is summarizing what Delaware courts have said about those engaged in the Land Use process; that he would be happy to provide citations; that these principles are non-debatable; that the Delaware courts require that, when you are restricting a landowners right to do something with his property, you have to do so explicitly and with very clear limitations; that Delaware cases say that if it is ambiguous, that you cannot enforce it; and that a plan cannot be rejected simply because it is not popular.

Mr. Manning referred to the ruling on the East Lake Partners Case (City of Dover Planning Commission) that the Planning Commission may not reject a site plan for a permitted use on the grounds that the project would adversely affect the general neighborhood.

Mr. Manning also referred to the Chancery Court Case of Lake Comegys, which stated that, if compliance with the established limits is a problem, the solution is to change the general limitations through appropriate legislation.

Mr. Manning discussed the comments of the Planning and Zoning Commission in their letter to Glen Urquhardt, Reynolds Pond, L.L.C., dated March 6, 2006 and he stated why the reasons for denial offered in that letter are not a lawful basis on which to reject the plan:

Commission’s Reason No. 1

“The proposed project does not meet the purpose of the Zoning Ordinance, since it does not promote the orderly growth of the County because the project is not in a Development District established by the 2002 Sussex County Land Use Plan Update.”

Manning’s Response

The project is in a zoning district that permits this plan and since it is permitted in the Zoning Code and it complies with the Subdivision Code, it must be approved. Other cluster plans proposing residential

projects in Development Districts have been approved by the Commission.

Commission's Reason No. 2

“The proposed project is not in accordance with the 2002 Sussex County Land Use Plan Update, as follows:

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- (A) It does not represent growth in an area where public infrastructure and services are available.**
- (B) The location of the proposed development is in an area where farmland preservation exists through Agricultural Preservation Districts and one of the goals of the Plan Update is to reduce pressure for development in agricultural areas and to promote the preservation of farmland.**
- (C) The Low Density Area also seeks to prevent untimely scattering of uses such as what is proposed. Instead, the Plan directs these types of uses to areas planned for efficient extension of public services. Public services are not planned to be extended to this area.**

Manning's Response to 2 (A)

This is a policy judgment - that one ought not to develop where public infrastructure and services are unavailable. That is not what the Sussex County Code says; the Code does not have that limitation in it. This is not a basis on which this plan could have been rejected.

Manning's Response to 2 (B)

The Sussex County Code permits this type of development on what is currently farmland. Although there is concern in this State about farmland preservation, that concern has not found its way into the Sussex County Code, and therefore, it cannot be the basis for rejecting the plan.

Manning's Response to 2 (C)

The language in the County's Zoning Code says (in AR-1 zoning) that the AR regulations seek to prevent untimely scattering of more dense, urban uses, which should be confined to areas planned for efficient extension of public services. This was changed by the Commission; they dropped the reference to urban uses. This project is for 1,630 units on 836 acres; you cannot call this an urban use. The standard was actually “bent a little bit to suit the ad-hoc thoughts of the Planning and Zoning Commission when it considered this application”.

Commission's Reason No. 3

The PLUS process does not transfer zoning authority from the County to the State, and the County makes the final decision on this application. But, the Commission must still consider the comments from the PLUS process, which are part of the record. These comments include the following:

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- A. The proposed project is located in an Investment Level 4 area according to the Strategies for State Policies and Spending. Because the project is outside of an area where the State and local governments have planned for growth, the State opposes the proposal.
- B. The State estimated that the project would bring several thousand new residents to the area, and the State has no plans to invest in infrastructure upgrades or additional services such as schools, police and transportation for the area.
- C. The State Department of Agriculture opposes the project because it is contrary to Livable Delaware and would act as a catalyst for other residential and commercial development of the area.
- D. DNREC has stated that the proposed development will have negative impacts on the streams and water bodies adjoining the project or downstream from it.
- E. The Office of State Planning Coordination is opposed to the project and is generally concerned that the project is out of character with the surrounding area.

Manning's Response to 3

“This begins the Commission’s application of comments that fall out of a gathering of State officials, not in Sussex County, having no legislative authority to say anything about what uses are appropriate in Sussex County, and yet the Commission applies these utterances that come out of that meeting as if they were law, as if you had already transmitted those things, those words into your zoning code...You can’t apply criteria that haven’t been legislatively enacted.”

The State does oppose this proposal; State officials have spent a lot of time lobbying against this project for the reasons stated by the Commission; that does not change Sussex County law and it has no standing; that infrastructure has always followed development and any planning process that says the other has to come first, is (in his opinion) a cynical policy; that what it really means is there shall be no development; that this project would create water bodies; that the project would comply with each DNREC regulation; that the general language as stated in 3(E) is not a basis on which a plan can be turned down; and that specific criteria (especially with subdivisions) has to be applied as to why a plan does not comply.

Commission's Reason No. 4

The project is in an area that has not developed with similar projects or residential density. There are no other developments that are similar in size or character to what has been proposed.

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Manning's Response

The size and character of this project are absolutely permitted by the Code. It will always be the case that a project is in an area that has not developed with similar projects if it is the first project and, if you don't have a first project, you would never be able to say that there are similar projects in the area. The reason stated that the project is out of character with the surrounding area is not a basis on which this project can be rejected.

Commission's Reason No. 5

The proposed project surrounds Route 30, Hummingbird Road and Beideman Road. Route 30 is a truck route and all three roads are used regularly by large farm equipment. The project, with 1,630 residential lots and its proposal to alter Hummingbird and Beideman Roads, is inconsistent with the existing traffic and agricultural use of these roads. The project would also lead to increased congestion on the adjacent and surrounding roads.

Manning's Response

DelDOT approved a Traffic Impact Study for the RPC plan; that the cluster plan does not have some of the traffic-generating features that were in the RPC plan, i.e. no offices or retail, no assisted living, no multi-family; that they propose to move Hummingbird Road to a location agreed to by DelDOT; that there currently is difficulty on Hummingbird Road when large equipment and automobiles confront each other; that this plan would abate those difficulties by providing room for each; and that this is not a basis on which to reject this project.

Commission's Reason No. 6

It would be premature to approve this subdivision at this time, since a significant part of it requires the relocation of Hummingbird and Beideman Roads. Since DelDOT has not approved the alteration of these roads, approval of the Preliminary Site Plan is not appropriate.

Manning's Response

DelDOT never approves the relocation of a road at the preliminary site

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plan stage of a project, so to say that DelDOT hasn't approved these proposals is to put them in a "Catch 22" that the applicant can never get out of. It is an unfair basis upon which to reject the plan. The plan is also consistent with other plans approved by Sussex County in the past; in Bayside Americana, the roads which being realigned as part of that project were officially approved by DelDOT after the plan was approved. That is the way it has to be; DelDOT will not give up its current right of way until you have already built the road and built it to State specs and you cannot build that road until a plan is approved.

Commission's Reason No. 7

The Commission is not satisfied that the proposed clustered subdivision is superior to a standard subdivision. Instead, it appears that the main goal of the developer is the maximization of the number of residential home lots. The Developer is asking for approval of 1,630 homes, which is significantly more than the net density that would be achieved with a standard subdivision.

Manning's Response

Nowhere in the record before the Commission did it state what the density would be with a standard subdivision. One of the only judgments that the Commission is supposed to make in reviewing the cluster plan is "is it better" than a non-cluster plan. It is very difficult to conclude that this plan is worse than a non-cluster plan if a non-cluster plan could ignore buffers and the preservation of open space.

Commission's Reason No. 8

The Commission does not feel that the items set forth in Subsection 99-9C of the Subdivision Ordinance have been favorably addressed. For example:

- The subdivision is not integrated into the existing terrain and surrounding landscape and will adversely effect natural areas while causing significant tree, vegetation and soil removal. If the subdivision was approved, it would require extensive grading for new roads, the relocation of existing roads, grading for the proposed large stormwater management areas with even more impervious areas caused by the homes, streets, amenities, driveways, etc.
- The preservation of open space and scenic views would be adversely affected by 1,630 lots. What is now wide open space will become congested with homes and other buildings, streets and other structures typically part of a residential subdivision.
- The project will adversely affect area roadways and does not provide for the vehicular and pedestrian movement within the site and along adjacent roads. There will be many cars per day

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added to the roadways in and around the project which DelDOT has commented negatively upon. Route 30 is a Truck Route and State roads in the area, including those within the proposed subdivision are frequently used by large pieces of farm equipment.

- The project does not preserve and conserve farmland. Instead, it eliminates a large area of farmland in an area where the State has spent a great deal of money to preserve farmland.
- The project is not compatible with other area land uses, which are primarily agricultural, as stated above. There was even testimony to the effect that the project would adversely affect industries that are incidental to agricultural uses, such as crop dusting. The property subdivision will also hinder farmers' ability to transport large pieces of agricultural equipment along the State roads that the developer plans to integrate into the residential subdivision.

Manning's Response

Subsection 99-9C is the County's Subdivision Code that sets forth general criteria which the Planning and Zoning Commission is supposed to apply in the review of a plan. None of these criteria are identified as a reason to reject the plan nor did the Commission identify how these criteria are not met or how they could be met. Subsection 99-9C offers very little guidance as to how some of the criteria can be met. For example, the criteria include preservation of natural and historical features and preservation of open space and scenic views. If an applicant is told that they violated that criteria by building on the property, than that criteria cannot be applied. The area has been zoned for growth at two units per acre for residential use; the applicant was invited to make sense out of that two units per acre use by giving him the cluster option to include parks, lakes, open space, and realigned roads to satisfy DelDOT's concerns. To say that the project doesn't tend towards the preservation of natural and historic features and the preservation of open space defies that the applicant has complied in creating the cluster option.

Development does create impervious surfaces although they have been minimized in this cluster plan; that he questions what the following means - "integrated into the existing terrain and surrounding landscape"; that he doesn't understand how the Commission can conclude that a project with eighty percent of the woodlands preserved will adversely affect natural areas while causing significant tree, vegetation and soil removal; and that, if that's the case, you cannot build anything under this Code.

The Commission is basically saying that they just don't want it even though 1,630 units can be built according to the Code.

There are nine miles of pedestrian trails provided for in this plan. If that doesn't meet the requirement, then what does?

Yes, there would be additional traffic; however, a TIS was done under the RPC plan and approved by DelDOT.

If a farmer voluntarily enters into the State's Farmland Preservation Program and sells his development rights to the State, a nearby farmer, who has not been given any money from the State, should not be denied his development rights.

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The land is zoned AR-1 and residential use is permitted in the area under the law. The fact that the developer is widening the roads and adding shoulders, which would allow more room for farm machinery, was ignored by the Commission. You cannot use the reason "not compatible with other area land uses" as a reason to turn the project down.

Mr. Manning concluded by saying that not one of the reasons stated by the Commission to reject this plan is enforceable. Through March of this year, 29 applicants have come to the Commission with cluster plans; 26 of them have been approved. Three plans, including the Isaacs Glen and Hayfield projects, which are adjacent properties, were denied. Only 2 out of 29 cluster option plans were rejected; the other plan was denied due to environmental issues associated with it. If the Commission is going to apply some of these particularly vague standards and make a judgment about whether the Isaacs Glen plan is better than a hypothetical non-cluster plan, it has to do it in a consistent way. You cannot look at the other 26 plans and conclude that they were better. This project preserves a higher percentage of open space than all but 5 of the 26; nor is this project the most dense; the project is within the County's density limits; the Commission has approved 8 projects that had higher gross density than this project; of the 26 plans approved, 24 were not in the Development District. The Commission has been quite willing with respect to other plans to approve projects where they are zoned regardless of whether they are in a low density area, Development District, etc. It is obvious that the Commission did not apply the Code in their decision on this project. Instead, the Commission reacted to a lot of angst expressed by the State Administration about this project. The State offered up planning policy suggestions that the Commission mistook for law and applied against this plan, in a way that is entirely inconsistent with almost every other cluster plan that came before them. The Commission did not do what the Council asks it to do; it did not apply the Code that the Council has adopted to reflect its planning policies. The Commission's actions should be rejected. The Council has the appellate authority to conclude that the Commission was wrong; that this plan should be approved; that it meets all the requirements of the County's existing laws; and that they ask that the Council tell the Commission that their

decision has been reversed and the plan has been approved.

Public comments were heard in support of the Isaacs Glen subdivision.

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David Isaacs spoke on behalf of the Isaacs family. He presented a brief history of the last four years. He stated that they have farmed their entire lives; that they now are in the poultry business; that the land is their future; that the State has unfairly targeted the Isaacs family; that the State has not opposed other developments that have been approved near their property; that the Commission has stated that the proposed use is out of character with the area; that he doesn't see that at all; that there are many other subdivisions in the area, to name some of them - Windjammer, Kings Crossing, Heritage Farms, Sylvan Acres, Waple Pond Acres, New Market Village, Captains Run, and Hummingbird Meadows; that one example is Captains Way – 494 units on 258 acres cluster development – approved two weeks after the Isaacs Glen application was turned down; that Captains Way will cause an increase in traffic and that it backs right up to forest preservation; and that they do not understand the Commission's decision and they think it is unfair.

Tom Herholdt of Milford stated that the whole area is a Development District; that most of the other developments in the area do not have decent infrastructure like fire protection and central sewer; that we must think about what we are leaving to the next generation of our County; that there are many failed septic systems in the area; that if this area continues in small, cut up, subdivisions, a lot of money will be spent on rebuilding septic systems; and that the Commission was in error in their decision to allow this subdivision.

Richard Page, a resident of Beideman Road, stated that he lives near the proposed development; that the Commission said that the roads would not support this development but approval has been granted to other developments on Route 404, which is a heavily traveled road; that the Commission referred to the impact on the schools; that many other developments have been approved that will impact schools; that new developments are being approved that don't afford the area anything to enjoy, whereas Isaacs Glen is proposing amenities; that the Commission applied rules to Isaacs Glen that they don't seem to be applying to other projects; and that there does not seem to be any logical reason to deny this project.

Ernest Zinzer of Rehoboth Beach stated that the proposed development should have been a model for County development; that Isaacs Glen should not be singled out and treated differently from other developments that have been approved; and that the project should be approved.

Deacon Terrance Neal of the Philadelphia Pentacostal Holiness Church stated that he was in attendance to represent Pastor Bishop Foster; that it appears the Commission did not understand the legislation before them;

that Council should right the wrong; and that they support the application.

Dan Kramer of Greenwood stated that the Commissioners cannot read the law; that they have no idea of the law; and that they should have voted in favor of the first application.

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Mike Parkowski of Parkowski, Guerke and Swayze, Attorney representing the Isaacs' family, stated that he was at the Planning and Zoning Commission's Public Hearing where a thorough presentation was given on the application, including the provisions in the Code that deal with cluster development; that a point by point detailed presentation was given; that Mr. Manning covered these same points thoroughly; that the focus of the whole commentary has been – if you follow the Code, this is a project that should have been approved; that the decision on the application was influenced by factors and policies which are not a part of the Code; that the decision was inequitable to the Isaacs' family; that the Level 4 issue is something the State concocted, not the County, and it does not appear in the Sussex County Code anywhere; that the State has attempted on numerous occasions to try and get legislation passed adopting Level 4 and it hasn't happened; that the Council's role as judges at this Hearing is to determine what the law was at the time the application was made and not what someone would like it to be or what the State is trying to exert on the County Land Use Plan; that the Level 4 issue does not make any sense and the Commission must not think so either since out of the 26 approvals that have been made for cluster developments, they are in Level 4 areas; that the Traffic Impact Study has been approved; that there was a campaign against the project involving State policymakers; that he questions why traffic wasn't a concern with the Captains Way and Hummingbird Meadows projects where there are 700 units dumping onto Route 16, a main artery to the beach; that Route 30 is not a main artery; that to make that comparison and state that one road is a problem and one isn't suggests that there is something wrong with the Commission's reasoning; that he is involved in the Farmland Preservation Program and it is a voluntary program and that is why it is successful; that the farmers in Delaware are pro-choice; that if they want to develop their land, they have the right to as long as they comply with the code requirements and if they choose not to, they have the ability to preserve it; that if there is some suggestion that everybody should preserve their farmland, that has never been a part of the system; that one of the PLUS comments was made that the proposed project is close (one mile away) to the Ponders Tract – Captains Way was approved and it is adjacent to the Ponders Tract; that there are six cluster development proposals within a one mile radius of Isaacs Glen; that this is an emerging area for development; that the economics are leading people to this particular area and the Commission is responding by approving the cluster developments, except for this project; that the project has been treated unfairly and influenced by things that do not have anything to do with the law or the County Code; that there were inconsistencies and double standards applied by the Commission in their decision; that they urge the Council to exercise judgment, to listen to what the people have said, and to

vote on the merits of the project; and that they are asking the Council to “unwind these inequities that have been rendered on the Isaacs Family” and find the Commission in error in their decision.

Public comments were heard in opposition to the application.

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Mabel Granke, President of the Citizens Action Foundation, was present in opposition to the application. She stated that Section 115-19 of the Code describes very specifically the AR-1 zone and its purpose; that although it allows residential development, its purpose is to encourage and support agriculture; that the decision needs to be based on that; that in the Sussex County Land Use Plan, there is a low density area and this project, as well as the others should be in low density areas; that with regard to the Traffic Impact Study, she believes that DelDOT very specifically said that this subdivision application had to have another Traffic Impact Study and whether that would make additional determinations with regard to the realignment of the roads, she does not know; that in the State Planning Report, this was a specific comment by DelDOT and she would like for that to be confirmed.

There were no additional comments in opposition to the application.

Mr. Manning was given the opportunity for rebuttal. He referred to Ms. Granke’s comments about “you can have residential but its got to encourage and be supportive of agriculture” and he stated that he has no idea what that means; more importantly, those that read the Code to determine what they can do with real estate, don’t know what that means; that this application encourages and supports agriculture because it encourages a population center so that you don’t have to spread the units across the landscape and actually threaten agriculture in the area; and that this is one of those standards that cannot be used as a basis for rejecting the plan. Mr. Manning pointed out that DelDOT did say that they wanted another Traffic Impact Study once the project is approved. He stated that this was also not a basis on which the project can be turned down.

Mr. Griffin declared that the Public Hearing on the appeal was concluded.

M 428 06
Go into
Executive
Session

At 10:26 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to go into Executive Session to discuss 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

Executive
Session

At 10:28 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing pending litigation.

M 429 06 **At 10:48 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to**
Reconvene **come out of Executive Session and reconvene the Regular Session.**
Regular
Session **Motion Adopted: 5 Yea.**

M 429 06 **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**
(continued) **Mr. Dukes, Yea; Mr. Jones, Yea;**
 Mr. Rogers, Yea

M 430 06 **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at**
Adjourn **10:50 p.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

Robin A. Griffith
Clerk of the Council