



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 17, 2008

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 17, 2008 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 427 08 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to amend the
Approve Agenda by deleting "Approval of Minutes" and to approve the Agenda, as
Agenda amended.

Motion Adopted: 5 Yeas.

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

Moment The Sussex County Council observed a Moment of Silence for Sussex
of Silence County Paramedic Stephanie Callaway who died in the line of duty on this
 date while tending to a patient en route to Beebe Medical Center.

Corre- Mr. Griffin read the following correspondence:
spondence
 FULLER HALL & ASSOCIATES, INC., SALISBURY, MARYLAND.
 RE: Letter commending Lindsay Stubbs for the excellent service she
 provides in the County's Mapping and Addressing Department.

The Council received a plaque from George Ritchie, Past State Commander of the Veterans of Foreign Wars Post #7234 in Ocean View in appreciation of the Council's support of the Operation Uplink Program.

Sussex The Sussex County Council congratulated the Sussex Central Lady Knights

Central Lady Knights on winning the 2008 State Softball Championship and recognized the team members who, on Monday, June 2, 2008, defeated top-seeded Caravel Academy by a score of 4-0 to win the Championship.

Announcement/ Loss of Sussex County Paramedic Stephanie Callaway Mr. Baker and Glenn Luedtke, Director of EMS, sadly announced the death of County paramedic Stephanie Callaway. A single vehicle crash occurred on Route 24 at approximately 2:40 a.m. on Tuesday, June 17th, when an ambulance from the Mid-Sussex Rescue Squad was en route to Beebe Medical Center in Lewes with a patient. The patient also passed away when the ambulance conducting the hospital transport struck a row of trees in an attempt to avoid a deer in the roadway.

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

1. **Land Use Plan Update**

An amended copy of the Land Use Plan Update has been submitted to the Planning and Zoning Commission as per their request. At their June 18, 2008, meeting, the Planning and Zoning Commission will be discussing the proposed Land Use Plan Update. The Commission will be making a recommendation to the County Council. Copies of the revised Land Use Plan Update are available on the Sussex County website at www.sussexcountype.gov.

2. **Delaware Department of Transportation Public Workshop – Statewide Transportation Plan Update**

The Delaware Department of Transportation will be hosting a workshop on July 15, 2008, from 4:00 to 7:00 p.m. at the DeIDOT Administration Building, 800 Bay Road, Dover, Delaware. This will be an open workshop to receive comments and questions regarding the Statewide Transportation Plan.

3. **Beneficial Acceptance**

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

- Bay Forest Club – Phase 1.2, Agreement No. 478-2, was granted Beneficial Acceptance on June 11, 2008. The developer is Bay Forest, L.L.C., and the project is located on the east side of Whites Neck Road, north of Old Mill Road, in the Millville Expansion of the Bethany Beach Sanitary Sewer District, consisting of 35 single-family lots.
- The Landings at Pepper Creek (sewer revision) (a/k/a The Marina at Pepper's Creek), Phase 1A, Agreement No. 516-1, was granted Beneficial Acceptance on June 12, 2008. The developer

is S. K. Pepper Creek, L.L.C., and the project is located on the south side of Road 336, east of County Road 335A, in the Dagsboro/Frankford Sanitary Sewer District, consisting of 16 single-family lots.

Adminis-
trator's
Report
(continued)

- Hopkins-Pettyjohn Subdivision – On-site (gravity and roads only) (a/k/a Red Mill Pond North), Agreement No. 446-2, was granted Beneficial Acceptance on June 12, 2008. The developer is ADC Builders and the project is located northeast of the intersection of Route 9 and Route 261 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 59 single-family homes and one clubhouse with a pool.

Included with this report is a fact sheet on each of the projects.

4. Inland Bays Pollution Control Strategy Public Hearing

The Delaware Department of Natural Resources and Environmental Control will hold a public hearing on June 23 at 6:00 p.m. at the Georgetown CHEER Center regarding the proposed Inland Bays Pollution Control Strategy. Attached is information regarding the hearing.

5. Legislative Update – House Bill No. 453

Attached is a copy of House Bill No. 453 regarding agritourism activities. On farms of ten or more acres, certain uses that now require public hearings by County Council and/or the Planning and Zoning Commission would be allowed by the State of Delaware. These allowed activities would include wineries, historical activities, cultural activities, harvest-your-own activities, outdoor recreation activities, rodeo and livestock activities, fishing, swimming, boating, camping, shooting, water skiing or tubing, paintball, freestyle or mountain and off-road bicycling, and riding or operating motorized recreational vehicles. Some of these activities currently require approval by the Planning and Zoning Commission and/or County Council after public input is received.

Legislation/
House Bill
No. 453

Mr. Baker stated that the County has some concerns regarding House Bill No. 453, especially the elimination of the public notification process. Mr. Baker reported that there is an amendment to the Bill proposed by DelDOT so that DelDOT would continue to regulate vehicle ingress, egress and signage for farm markets and roadside stands, as they currently do. Mr. Baker advised that the Farm Bureau supports this legislation.

Mr. Baker stated that the Council could take a position to (1) oppose the legislation, (2) exempt the County, or (3) exempt the County from certain uses that are currently included.

The Council considered whether or not to oppose the legislation: Mr. Cole, Oppose; Mr. Phillips, Support; Mr. Dukes, Oppose; Mr. Rogers, Oppose; Mr. Jones, Oppose. It was the consensus of the Council to oppose House Bill No. 453, as written.

**Legislation
(continued)**

Ed Jestice, President of the Delaware Farm Bureau and Chairman of the Agritourism Group, was asked to address the Council and present the Sussex Farm Bureau's position. Mr. Jestice educated the Council on the agricultural activities that are already allowed (legislation adopted in 2004 and updated in 2006). He noted that House Bill No. 453 would only broaden a few of the existing aspects. Mr. Jestice stated that he respects the County's position and that he would take the Council's message and concerns to Dover. He agreed that there are concerns with some parts of the legislation, including on-farm rodeos and motorized vehicles, and that adjustments to the legislation will be made; in addition, building height and setbacks and off-street parking will be addressed.

Mr. Dukes referenced DelDOT's Public Workshop on state-wide transportation and he asked that Hal Godwin or Chip Guy find out cost information, e.g. DelDOT's costs and the rider's costs. Mr. Dukes commented that the State has said that they are losing money on this program.

**Grant
Request**

Mr. Godwin presented the following Local Law Enforcement Grant request for the Council's consideration:

Town of Blades \$25,000.00 Police Vehicle

**M 428 08
Approve
Local
Law
Enforce-
ment
Grant
Request**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the Local Law Enforcement Grant to the Town of Blades, as presented.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Fiscal
Year
2009
Budget**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2009".

David Baker, Susan Webb, and Kathy Roth (Budget and Cost Manager) presented the Proposed Fiscal 2009 Budget.

Mr. Baker stated that the Proposed Budget totals \$142 million, approximately \$113,000 less than Fiscal Year 2008; that the General Fund (operating funding) is down \$3.1 million from the previous year to \$54.8 million; and that the sewer and water districts budget for operations and debt service is down 7 percent (\$2.4 million). As part of the General Fund,

there is a \$9.9 million Rainy Day fund (approximately 17 percent of the Budget); this funding is used for emergencies and unexpected needs.

Public
Hearing/
Fiscal
Year
2009
Budget
(continued)

Mr. Baker stated that Realty Transfer Tax revenues are approximately one-half of what they were in 2005 and 2006, which is due solely to the change in the economy. For this reason, the County is trying to make do with less and without making changes to important County services.

Mr. Baker stated that the challenge and goal in developing this Budget has been to maintain and supplement existing County services while facing major decreases in revenue; that conservative budgeting in the past has enabled the County to continue without raising property taxes; that the County's strong financial base enables further use of appropriated reserves during Fiscal Year 2009 to supplement the Budget; and that General Fund Budgeted Appropriated Reserves of \$2,550,515 are reduced by \$1,839,866 for Fiscal Year 2009. Mr. Baker reported that, as in prior years, a major concern of the Budget Committee continues to be various proposals by the State to reduce the County's share of Realty Transfer Tax funds. Mr. Baker reviewed potential cuts that may be necessary if the Realty Transfer Tax allocation is reduced by the State.

Mr. Baker, Mrs. Webb, and Mrs. Roth presented a power point presentation that provided an overview of the Proposed Fiscal Year 2009 Budget.

Mr. Baker presented the following budget highlights:

- No property tax increase.
- 21% decrease in anticipated Realty Transfer Tax and housing industry related revenues.
- Land Use Plan Update ordinances.
- No Sewer Service Charge or Assessment increases.
- Economic Development – Industrial Park & Airport Improvements (\$10.1 Million)
- Records Storage Program
- Funding for 40 additional State Police
- Sussex County Volunteer Firemen's Association (\$3.5 Million)
- Moderately Priced Housing Program Administration
- Dog Control - \$300,000 Grant
- Millville and Miller Creek Sewer
- Five-Year Capital Program (\$277,103,970)
- Fiscal 2009 Capital Plan, including Library Expansion Projects in Milton and South Coastal, Airport Industrial Park Improvements, Treatment Plant Expansion Design, Millville Sewer, Utility Rate Study, Water and Sewer Communication Improvements
- 5.4 percent General Fund Budget Decrease

Public comments were heard.

**Public
Hearing/
Fiscal
Year
2009
Budget
(continued)**

Dan Kramer of Greenwood commented on the State wanting more money from the County and he questioned and spoke in opposition to the funding allocation for the Sheriff's Department for a Deputy Sheriff to assist in providing added security to the County Administration Building and for additional training and education of all Deputies.

John Brady of Lewes and the Sussex County Recorder of Deeds thanked the Council for its budget allocation. He stated that, as always, he does not plan to spend the entire allocation and that he will be prudent with the taxpayers' money.

Bill Tobin of Harbeson, President of the Sussex County Volunteer Firemen's Association, spoke on behalf of the fire companies and the EMS service, thanking the Council for the funding allocated in the Fiscal 2009 Budget.

Lisa Smith of the Sussex County Habitat for Humanity thanked the Council for its past support and requested that \$20,000 be included in the Fiscal 2009 Budget to assist families who remain in substandard housing and to maintain their goal of constructing eight more homes next year.

Dr. Robert Roberts of Rehoboth Beach spoke regarding the West Rehoboth area. He stated that on June 10, 2008, the Lewes – Rehoboth Association of Churches (LRAC) recommended that the following committees be combined into one coalition committee: West Side New Beginnings (WSNB), Citizens Committee for West Rehoboth (CCWR), West Rehoboth Community Land Trust (WRCLT), and the Coalition for Tolerance and Justice (CT&J). The purpose of this is to establish an organized program for the improvement of the West Rehoboth community. Dr. Roberts requested funding in the amount of \$62,000 for West Rehoboth for the following: funding for rehabilitation of five homes (\$50,000), aid in addressing the dangerous situation existing with trash pick-up and its escalating costs (\$9,000), and improved street lighting (\$3,000). A letter from the LRAC, WSNB, WRCLT, CCWR and CT&J was made a part of the record of this Public Hearing..

Mr. Cole stated that the City of Rehoboth would have the equipment needed for a community clean-up project and he asked Dr. Roberts to (1) obtain a letter from the City confirming their participation, (2) find out what the clean-up costs would be, and (3) submit this information along with a letter to the Council requesting funding.

Brenda Melbourne spoke regarding the West Rehoboth area and requested immediate assistance with costs associated with trash removal and street lighting.

Esther Shelton of the League of Women Voters of Sussex County thanked the Council for its budget allocation for the brochure entitled "They

Represent You’’. She also commented on Land Use, Open Space and Row Offices. Ms. Shelton submitted a letter, which was made a part of the record of this Public Hearing.

**Public
Hearing/
Fiscal
Year
2009
Budget
(continued)**

Ken Bock, Deputy Director of CHEER, stated that this year CHEER will provide over 200,000 meals to 6,000 citizens of Sussex County and the Home Services Division will serve 3,700 individuals providing over 115,000 hours of service to individuals in their own homes to help them maintain their independence and quality of life. Mr. Bock asked that the Council consider the following in the Fiscal 2009 Budget: increased costs associated with CHEER’s Nutrition Program including increases in the cost of food and fuel and a proposal by the State to decrease their grant-in-aid program. It was noted that a grant request was previously submitted.

George Parish, Sussex County Clerk of the Peace, thanked the Council for approving the Department’s Fee Schedule, which does not permit the taxpayers of Sussex County to subsidize out-of state residents’ marriage licenses.

Bernice Edwards, Executive Director of First State Community Action Agency, asked for the Council’s financial support for renovations to their office building in Georgetown. It was noted that a grant request was previously submitted.

David Wilson, Sussex County Register of Wills, spoke in support of the Proposed Budget.

There were no additional public comments.

Mr. Baker submitted to the Council a list of grant requests for the Fiscal 2009 Budget totaling approximately \$900,000. Mr. Baker stated that approximately \$200,000 of those grants have been included in the Proposed Budget: Delaware Hospice (\$5,000), La Esperanza (\$1,000), Milford Housing Development Corporation (\$25,000), University of Delaware (\$138,098), CHEER Community Center – Home Services Division (\$10,000), and Delaware District III Softball World Series (\$15,000).

Mr. Baker read a letter into the record from the Bethany-Fenwick Area Chamber of Commerce thanking the Council for including the County Economic Development Office and Director in the Fiscal 2009 Budget.

The Public Hearing was closed.

**Public
Hearing/
Assessment
Rolls for
Water**

A Public Hearing was held on the Assessment Rolls for all Sussex County Sewer and Water Districts. Mrs. Webb explained that the Assessment Rolls reflect the County’s billing records for EDUs and billable front footage for each sewer and water district account. These records have been made available for public inspection in the Utility Billing Office for review and

**and
Sewer
Districts** **they are subject to individual appeals via the Assessment Review Board.**

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

**Public
Hearing/
Establishing
Service
Charges
for all
Water
and
Sewer
Districts** **A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.**

Susan Webb and Kathy Roth distributed and reviewed several charts and handouts, including a summary of costs to be recovered through annual utility charges; a summary of annual service charges and assessment charges; a summary of system connection charges; a summary of average sewer and water bills by district; and water and sewer district relief programs. Mrs. Webb noted the growth in the sewer districts; in 1998, there were 30,000 EDUS and in 2009, there are almost 60,000 EDUs, representing an average annual growth of 17 percent.

Mrs. Roth reported that \$38.7 million in capital projects is proposed, including Angola and Millville. The Five Year Capital Plan is \$277 million; 77 percent is for water and sewer projects and 23 percent is for general fund projects; bonds will fund \$175 million of this amount.

Mr. Baker reported that no changes are recommended to the assessment rates and service charge rates for the sewer districts. He noted that front foot assessment rates are designed to recover the costs of bond debt service and capital costs and that service charge rates are primarily used for operations and maintenance; however, they are also used for some bond debt service costs for treatment facilities. All of the charges are maintained for each respective district. Mr. Baker explained that connection charges are one-time up-front fees charged for new users. He noted that there are some recommended changes to these charges; an increase of 3.4 percent is being recommended for most of these fees due to the increase in construction costs. He further noted that connection charges are designed to cover the cost of growth.

Public comments were heard.

Mickey Kerneklian of Ocean View stated that he was present representing Banks Harbor Retreat, which is a part of the North Millville Sewer Expansion. Mr. Kerneklian discussed the proposed charges and its impact on this (primarily) senior citizen community. He expressed concern about the impact fee. He stated that the impact fee for a home built before June 2003 would be \$2,300.00; however, additional costs in the approximate amount of \$1,500.00 would also have to be paid to a plumber; the total payout by the homeowner would be approximately \$4,000.00. If a home

**Public
Hearing/
Establishing
Service
Charges
for all
Water
and
Sewer
Districts
(continued)**

was built after June 2003, the impact fee would be \$5,222.00 plus additional costs to a plumber; the total payout in this case would be approximately \$7,000.00. Mr. Kerneklian stated that the part that concerns him the most is the annual rate of \$230.00 and the front foot costs (\$9.85); and that 100 front feet would cost \$1,200 to \$1,300 per year. He stated that these rates will adversely affect the residents. Mr. Kerneklian compared these rates to other sewer districts. Mr. Kerneklian expressed his hope that the rates will be lower when the actual costs are established.

Edwin Schimler, Jr. stated that he believes that the existing ordinance establishing the tax assessment formula for County water and sewer districts needs to be reformed or amended in some way to ensure that the cost (tax assessment) is more evenly disbursed among the citizens utilizing the system. He stated that the current ordinance has been in existence for about 30 years and that it should be updated to consider the situations of various people. Mr. Schimler stated that at the Fiscal 2008 Budget Hearing, he was told by the President of the Council that the 100 foot cap limitation could not be made permanent and that changes to the assessment formula were in process. Mr. Schimler stated that he would like to know the status of those changes as he does not see any changes reflected in the Fiscal 2009 Budget.

Mr. Baker stated that the County has hired a consultant to perform a Utility Rates Study and that the Study is near completion. Mr. Baker stated that he would arrange a meeting with Mr. Schimler and County staff.

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

**M 429 08
Adopt
Ordinance
No. 1973/
Fiscal
2009
Budget**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1973 entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2009".

Motion Adopted: 5 Yeas.

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

**M 430 08
Adopt
Assessment
Rolls for
Sewer
and
Water
Districts**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based on the recommendation of the County Engineer and the County Finance Director and for the reasons stated during the Public Hearing, that the Sussex County Council hereby adopts the Assessment Rolls for all Sussex County Sanitary Sewer and Water Districts, as presented on June 17, 2008, for the period July 1, 2008 through June 30, 2009.

Motion Adopted: 5 Yeas.

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

Mr. Jones, Yea

M 431 08 Ordinance No. 1974 M 431 08 Adopt Ordinance No. 1974/ Service Charges for Sewer and Water Districts (continued)	<p>A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1974 entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p> <p>It was noted that requests for funding to be included in the Fiscal 2009 Budget will be considered at a later date.</p>
M 432 08 Recess Regular Session and Go Into Executive Session	<p>At 12:19 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session for the purpose of discussing Potential/Pending Litigation.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Executive Session	<p>At 12:20 p.m., an Executive Session of the Sussex County Council was held to discussing Pending/Potential Litigation. The Executive Session concluded at 12:54 p.m.</p>
M 433 08 Come Out of Executive Session/ Reconvene Regular Session	<p>At 12:55 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Dukes, to come out of Executive Session and to reconvene the Regular Session of the Council.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
M 434 08 Recess	<p>At 12:55 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.</p>
Reconvene	<p>Mr. Jones called the Council back into session at 1:33 p.m.</p>
Old Business	<p>The Council discussed Conditional Use No. 1774 filed on behalf of Robino Sea Chase. On May 20, 2008, the County Council voted to support the</p>

- (C/U
No. 1774) construction of the Clubhouse as approved in Ordinance No. 1455 and as shown on the Preliminary Site Plan and in the Developer's Sales and Marketing Information (thereby denying the request to amend Condition No. 6) and the County Council voted to support the request to amend Condition No. 7 so that both entrances (Sea Chase I and Sea Chase II to County Road 274) may remain open since DelDOT no longer objects to the second entrance.
- Old
Business
(C/U
No. 1774)
(continued) Mr. Griffin advised that on May 20, 2008, the Council voted on the two components of the Proposed Ordinance; however, the Council never made a Motion to adopt the Proposed Ordinance.
- M 435 08
Adopt
Ordinance
No. 1975
(C/U
No. 1774)
Robino
Sea
Chase,
LLC A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1975 entitled "AN ORDINANCE TO DELETE AND/OR MODIFY THE CONDITIONS IMPOSED IN ORDINANCE NO. 1455 FOR CONDITIONAL USE NO. 1379, THE APPLICATION OF ROBINO SEA CHASE, LLC" (Conditional Use No. 1774) filed on behalf of Robino Sea Chase, LLC and to incorporate in the Ordinance the results of the two votes taken by the Council on May 20, 2008 to require the construction of the clubhouse and to allow the two existing entrances to remain open.
- Motion Adopted: 5 Yeas.
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea
- Old
Business/
C/U
Nos. 1729
and 1730 The Council discussed Conditional Use No. 1729 and Conditional Use No. 1730 filed on behalf of Page Melson.
- The Planning and Zoning Commission held a Public Hearing on these applications on March 5, 2008; on March 19, 2008, the Commission recommended that the applications be denied.
- The County Council held a Public Hearing on these applications on March 18, 2008 at which time they deferred action.
- Councilman Dukes stated that he was not present during the Public Hearings and that he would not be participating in the vote.
- M 436 08
Adopt
Ordinance
No. 1976
(C/U
No. 1729) A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1976 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 43,558 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1729) filed on behalf of Page Melson, with the following conditions:

M 436 08
Adopt
Ordinance
No. 1976
(C/U
No. 1729)
(continued)

1. Only two units shall be permitted upon the property.
2. Proof shall be provided by the Applicant that DNREC has approved septic for the two units.
3. There shall be at least three parking spaces per unit.
4. Prior to the submittal of a Final Site Plan, the Applicant shall file to the County Board of Adjustment, an application for a variance for the side yard setback to use the garage for a residential structure. If the Board grants said variance, the Planning and Zoning Commission may then consider the Final Site Plan.
5. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Abstention.

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

M 437 08
Adopt
Ordinance
No. 1977
(C/U
No. 1730)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1977 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 20,000 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1730) filed on behalf of Page Melson, with the following conditions:

1. Only two units shall be permitted upon the property.
2. Proof shall be provided by the Applicant that DNREC has approved septic for the two units.
3. There shall be at least 3 parking spaces per unit.
4. Prior to the submittal of a Final Site Plan, the Applicant shall file to the County Board of Adjustment, an application for a variance for the rear yard setback to use the garage for a residential structure. If the Board grants said variance, the Planning and Zoning Commission may then consider the Final Site Plan.
5. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Abstention.

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

**Old
Business
(C/U
No. 1733)**

The Council discussed Conditional Use No. 1733 filed on behalf of Edward A. and Janet L. O'Brien.

The Planning and Zoning Commission held a Public Hearing on this application on April 10, 2008; on April 24, 2008, the Commission recommended that the application be approved with eleven conditions.

The County Council held a Public Hearing on these applications on April 24, 2008 at which time they deferred action.

**M 438 08
Adopt
Ordinance
No. 1978
(C/U
No. 1733)**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1978 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MULTI-PURPOSE SPORTS FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.8683 ACRES, MORE OR LESS" (Conditional Use No. 1733) filed on behalf of Edward A. and Janet L. O'Brien, with the following conditions:

- 1. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- 2. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- 3. All entrances shall comply with all of DelDOT's requirements.**
- 4. Any outdoor sport courts are to be utilized during daylight hours only and are to be fence enclosed. Any outside lighting is to be used for security purposes only and shall be screened from neighboring properties and only installed on the building.**
- 5. There will be only one (1) sign on the premises that shall not exceed 32 square feet on each side.**
- 6. The hours of operation on this site shall be limited to 6:30 a.m. to 10:00 p.m., seven (7) days per week.**
- 7. The maximum capacity of the building shall be 40 persons.**
- 8. There shall be no outside piped music on the outdoor sports court.**

9. **Parking shall be confined to the parking lot. No parking is to occur on Old Mill Road. No parking is to be permitted in the front yard setback.**

10. **No alcohol is allowed on the premises.**

**M 438 08
Adopt
Ordinance
No. 1978
(C/U
No. 1733)
(continued)**

11. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 3 Yeas, 2 Nays.

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

**Introduction
of Proposed
Ordinances**

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OFFICE AND RETAIL USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.50 ACRES, MORE OR LESS” (Conditional Use No. 1800) filed on behalf of Cheryl Normandeau.

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.337 ACRES, MORE OR LESS” (Conditional Use No. 1801) filed on behalf of Chase T. Brockstedt.

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.45 ACRES, MORE OR LESS” (Conditional Use No. 1802) filed on behalf of Mary P. Kelly.

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE SALE OF PRODUCE, BARBEQUE, SNOWBALLS, LAWN FURNITURE, FIREWOOD AND GIFTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 1803) filed on behalf of Tim Elder.

Mr. Phillips introduced the Proposed Ordinance entitled “AN

**Introduction
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ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.53 ACRE, MORE OR LESS” (Conditional Use No. 1804) filed on behalf of Wayne Drywall.

Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MAINTENANCE DISPATCH OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.92 ACRES, MORE OR LESS” (Conditional Use No. 1805) filed on behalf of Michael D. Herholdt.

The Proposed Ordinances will be advertised for Public Hearing.

**Additional
Business**

Under Additional Business, Daniel Kramer stated that the Fiscal 2009 Budget includes a raise for employees based on evaluations. Mr. Kramer questioned who will evaluate the Councilmembers.

**Workshop
on Sign
Ordinance
Proposals**

A Workshop was held on the necessity of updating the County’s sign regulations. At the conclusion of the Workshop, the Council directed Lawrence Lank, Director of Planning and Zoning, to format the proposed regulations in ordinance form for review by the County Attorney and presentation to the Council.

**M 439 08
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to adjourn at 3:12 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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