



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 15, 2008

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 15, 2008 at 6:40 p.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
David Hackett	Assistant County Attorney

M 466 08 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the **Approve Agenda** Agenda, as posted.

Motion Adopted: 5 Yeas.

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

M 467 08 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the **Approve Minutes** minutes of June 10, 2008.

Motion Adopted: 5 Yeas.

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

M 468 08 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the **Approve Minutes** minutes of June 17, 2008.

Motion Adopted: 5 Yeas.

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

**Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

Corre-spondence **Mr. Hackett read the following correspondence:**

Corre-spondence (continued) **M. E. JANISZEWSKI, JROTC/USMC, WOODBRIDGE HIGH SCHOOL, WOODBRIDGE, DELAWARE.**
RE: Letter in appreciation of grant.

VIOLET RUST, MILFORD, DELAWARE.
RE: Email commending County employee Bonnie Wootten.

MAYOR CARLETON E. CAREY, SR., CITY OF DOVER, DELAWARE.
RE: Letter of condolence for the loss of Sussex County Paramedic Stephanie L. Callaway.

CLINTON TYMES, STATE DIRECTOR, DELAWARE SMALL BUSINESS DEVELOPMENT CENTER, UNIVERSITY OF DELAWARE, NEWARK, DELAWARE.
RE: Letter in appreciation of grant.

MARQUERITE H. PRUEITT, CHIEF EXECUTIVE OFFICER, AMERICAN RED CROSS, WILMINGTON, DELAWARE.
RE: Letter in appreciation of grant.

JENNIFER WRIGHT, DEVELOPMENT DIRECTOR, BOY SCOUTS OF AMERICA, WILMINGTON, DELAWARE.
RE: Letter in appreciation of grant.

ALICE GODWIN, FRANKFORD, DELAWARE.
RE: Letter to Mike Jones of Sussex County's Community Development and Housing Department in appreciation of improvements made to her home.

RUDOLPH E. WILSON, PRESIDENT, SEAFORD HISTORICAL SOCIETY, SEAFORD, DELAWARE.
RE: Letter in appreciation of grant.

Center for the Inland Bays Occupancy Agreement Renewal **Mr. Baker presented a proposal to extend an Occupancy Agreement between Sussex County and the Center for the Inland Bays (CIB) for the maintenance of the James Farm site. The proposed extension is for another 5-year term with an automatic renewal of another 5 years. The annual occupancy fee is \$1.00 annually.**

Ed Lewandowski, Executive Director of the CIB, stated that the Partnership between the County and the CIB has been a resounding success. Following the execution of the original Agreement in 1998, an ecological preserve was created at the site and the James Farm has become a destination for locals and tourists. The site has also served as an

educational site for more than 8,000 middle-level students in schools throughout the State.

Eric Buehl, Habitat Coordinator, presented information on the Sloughs Gut Marsh Enhancement Project and E. J. Chalabala, Wildlife Manager, presented information on the Inland Bays Oyster Gardening Program.

M 469 08
Authorize Extension of Occupancy Agreement/Center for the Inland Bays

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to authorize the extension of the Occupancy Agreement with the Center for the Inland Bays for the property known as the James Farm, in accordance with the same terms and conditions as the Original Contract executed in 1998.

Motion Adopted: 5 Yeas.

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

Grant Presentation

Mr. Baker reported that a \$10,000 grant was appropriated in the County's Fiscal 2008 Budget for the CIB. The Council presented the \$10,000 check to Mr. Chalabala for CIB programs and activities.

Term Expiration

Mr. Baker announced that Ronald G. McCabe's appointment on the Board of Adjustment expired in June.

M 470 08
Reappointment to Board of Adjustment

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to reappoint Ronald G. McCabe to the Board of Adjustment for a term of three years.

Motion Adopted: 5 Yeas.

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

Administrator's Report

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

1. **Runway Temporary Closure**

On the evenings of July 14 through July 18 and July 20 and 21 from 10:00 p.m. to 6:00 a.m., the main runway at the County Airport in Georgetown will be temporarily closed. Work in building the new crosswind runway entails partial construction in the safety areas of the main runway. Because of this construction, there is a need for a temporary closure of the main runway during these evenings. Airport tenants have been made aware of this temporary closure.

2. **Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities**

On July 21, 2008, at 10:00 a.m., the Sussex County Advisory

Committee for the Aging and Adults with Physical Disabilities will meet at the Sussex County West Administrative Office Complex on North DuPont Highway in Georgetown.

Administrator's Report (continued)

3. Foreclosure Prevention Seminar

The Sussex County Department of Community Development and Housing will host a free Foreclosure Prevention Seminar on July 17, 2008, from 6:00 to 8:30 p.m. at the Laurel Town Hall. The event is open to the public, with a goal to assist homeowners to prevent mortgage foreclosures.

4. Delaware State Police Report

Attached was a copy of the May 2008 report from the Delaware State Police. As per the report, 4,458 complaints were handled, as well as 1,239 criminal arrests.

Open Space Definition

Mr. Baker noted that the Council members have been provided with a recommendation for a revised open space definition. The plan is for the Council to review this document at the July 29th meeting.

Proposed Resolution

Mrs. Webb presented a Proposed Resolution for the Council's consideration.

**M 471 08
Adopt
R 019 08/
Bank
Resolution**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to Adopt Resolution No. R 019 08 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE NATIONAL BANK BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

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**

CAFR Award

Mrs. Webb reported that, for the sixth consecutive year, Sussex County has earned the Certificate of Excellence in Finance Reporting for its Fiscal Year 2007 Comprehensive Annual Financial Report (CAFR). The award is among the highest form of recognition for governmental accounting and financial reporting. Mrs. Webb commended the Accounting and Finance Departments for this accomplishment.

Legislative Update **Mr. Godwin presented a recap of the results of the 144th General Assembly, which ended in the early morning hours of July 1st:**

- **All Land Use Bills in the House stayed in the House.**
- **Both Bills that affect the County Engineering Department were passed (House Bill No. 449 and House Bill No. 312).**
- **In regards to the Agritourism Bill (House Bill No. 453), Sussex County was exempted out of the legislation.**

**Legis-
lative
Update
(continued)**

Mr. Dukes commented on House Bill No. 451 relating to Tax Increment Financing Districts. He stated that, because it did not pass, it will cost the County and the State millions of dollars in lost revenue. Mr. Dukes acknowledged that the Council did not unanimously support this legislation. Mr. Godwin reported that House Bill No. 453 did pass the House unanimously, with no amendments. Mr. Dukes stated that he hopes this legislation is considered and passed in the next legislative session.

Mr. Baker reported that the County does have concerns about the Grant-In-Aid Bill. At approximately 3:30 a.m. on July 1, the following was introduced as part of the Bill:

Section 29. Amend 16 Del. C. §9814 (b) striking the number “40” and replacing it with the number “30”. Further amend by striking the number “60” and replacing it with the number “70”. After the word percent insert the following “beginning in Fiscal Year 2010”. Further amend 16 Del. C. §9814 (c) and (d) by replacing the number “40” with number “30”.

Mr. Baker reported that this will change the State’s portion of paramedic funding during Fiscal 2010 from 40 percent to 30 percent (a \$1.4 million in reduction of State funds for Sussex County).

Mr. Baker noted that this Amendment was not available prior to its introduction.

Mr. Baker stated that all three counties are concerned about this Bill and plans are to have it changed during the next Legislative Session.

**Bid
Results**

Brad Hawkes, Director of Utility Engineering, presented the bid results for Sussex County Project No. 08-03, Millville Expansion of the Bethany Beach Sanitary Sewer District Route 26 West and MPS 8.

**M 472 08
Award
Bid/
Millville
Expansion
of the
BBSSD**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants, Whitman, Requardt & Associates, LLP and the Engineering Department, that Sussex County Project No. 08-03, Millville Expansion of the Bethany Beach Sanitary Sewer District Route 26 West and MPS 8, be awarded to George and Lynch, Inc. of Dover, Delaware at the base bid amount of \$2,767,074.50, contingent upon the receipt of approval from Rural Utility Service.

Route 26

**West and
MPS 8**

Motion Adopted: **4 Yeas, 1 Absent.**

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

**Old
Business/
C/U
No. 1791**

The Council discussed Conditional Use No. 1791 filed on behalf of Tidewater Utilities, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on May 22, 2008; on June 12, 2008, the Commission recommended that the application be approved with eight conditions.

The County Council held a Public Hearing on this application on June 10, 2008 at which time they deferred action.

**M 473 08
Adopt
Ordinance
No. 1982
(C/U
No. 1791)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1982 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR-RPC, MEDIUM DENSITY RESIDENTIAL DISTRICT / RESIDENTIAL PLANNED COMMUNITY FOR A CENTRAL DRINKING WATER FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.03 ACRES, MORE OR LESS” (Conditional Use No. 1791) filed on behalf of Tidewater Utilities, Inc., with the following conditions:

1. All improvements for central water distribution, including wells, pumps, treatment and storage facilities shall be constructed and maintained in accordance with the requirements of the Delaware Department of Health, the Public Service Commission, the Department of Natural Resources and Environmental Control and any other governmental agency with applicable jurisdiction.
2. The water storage tank shall be an on-ground tank, not exceeding 29 feet in height. No elevated water tower shall be constructed on site.
3. There shall be a landscaped buffer surrounding the entire site, including the water storage tank. The landscaping shall be of sufficient density and height to screen the plant from view of neighboring properties and the County Road. A landscape plan showing this buffer shall be submitted as a part of the Final Site Plan review.
4. All generators and equipment shall be located inside of structures, and the structures housing the generators shall be designed to reduce noise caused by the operation of the generators.
5. Unlighted signage shall be permitted to identify the operator of the plan. No signs shall be permitted on the water tank.
6. The buildings associated with this use shall appear to be agricultural or residential style buildings.
7. Any security lighting shall be screened so that it does not shine onto neighboring properties or County roads.

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

Motion Adopted: **5 Yeas.**

M 473 08 **(continued)** **Vote by Roll Call:** **Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea**

Fiscal 2008 Community Grant Fund **Mrs. Webb reported that the Fiscal 2009 Budget became effective July 1, 2008 and that, as a part of the budget, the funding allocated for Councilmanic Grants, Youth Activity Grants, and Community Investment Grants are combined into one Community Grant classification and that each Councilman was allocated \$61,000.**

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

M 474 08 Community Grant **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$5,000.00 to the Millsboro Public Library from Mr. Phillips' Community Grant Account for their programming budget.**

Motion Adopted: **5 Yeas.**

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

M 475 08 Community Grant **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$10,000.00 from Mr. Phillips' Community Grant Account to the Gumboro Community Center for improvements to the ball field and surrounding area and for the Community Center's fund for the children.**

Motion Adopted: **5 Yeas.**

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

M 476 08 Community Grant **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$2,000.00 from Mr. Jones' Community Grant Account to the Boys and Girls Club of Georgetown for operating expenses.**

Motion Adopted: **5 Yeas.**

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

M 477 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$1,000.00 from Mr. Dukes' Community Grant Account to the Seaford Police Department for their Annual Community Night Out Against Crime and Drugs.
M 477 08 (continued)	Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 478 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$1,000.00 from Mr. Dukes' Community Grant Account to Eastern Shore AFRAM for Annual Festival expenses.
	Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 479 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Community Grant Account) to Everlasting Hope Ministries for a community anti-drug rally.
	Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 480 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$1,000.00 from Mr. Jones' Community Grant Account to the Bridgeville Apple – Scrapple Festival for festival expenses.
	Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 481 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$250.00 from Mr. Jones' Community Grant Account to the Town of Bridgeville for their golf tournament fundraiser.
	Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea

M 482 08 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$500.00 from Mr. Jones' Community Grant Account to the Town of Greenwood for the Big Saturday Festival.

M 482 08 (continued) **Motion Adopted:** **5 Yeas.**
Vote by Roll Call: **Mr. Cole, Yea; Mr. Phillips, Yea;**
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 483 08 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$200.00 from Mr. Jones' Community Grant Account to Boy Scout Troop 95 for Casey Lewis' Eagle Project.

Motion Adopted: 5 Years.

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

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 A REGIONAL WATER FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 74.61 ACRES, MORE OR LESS" (Conditional Use No. 1810) filed on behalf of Artesian Water Company, Inc.

Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42,418 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1811) filed on behalf of Lawman Properties, LLC.

Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 79.30 ACRES, MORE OR LESS" (Change of Zone No. 1664) filed on behalf of HKS 3, LLC.

Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO AN

**Proposed
Ordinances
(continued)**

AR-1 AGRICULTURAL RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY AND A GR GENERAL RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 126.86 ACRES, MORE OR LESS" (Change of Zone No. 1665) filed on behalf of Delmarva Woodlands Alliance Hilton, LLC.

The Proposed Ordinances will be advertised for Public Hearing.

**Additional
Business/
Roxana
Methodist
Church
Sign
Violation**

Under Additional Business, Alan Burbage informed the Council that Roxana Methodist Church has received a sign violation. He stated that they have two "signs" on the site; that one is located on the parking lot; and that one sign is located near the church, which is a locked glass sign providing church information (name of Church and Pastor, and worship hours). Mr. Burbage stated that the Church could apply for a variance at a cost of \$400.00; however, they are a small Church and the cost would be prohibitive.

**M 484 08
Waive
Variance
Applica-
tion Fee
for
Roxana
Methodist
Church**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to waive the application fee for a variance (\$400.00) to be filed by the Roxana Methodist Church.

Motion Adopted: 5 Yeas.

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

**Additional
Business/
Gregory
Menoche/
Wind
Turbines**

Under Additional Business, Gregory Menoche of Dagsboro stated that he sells and installs wind turbines in the Sussex County area and that he is asking the Council to change the County Code (Chapter 115, Section 23) *Special Use Exceptions, Item 13, Windmills and wind-powered generators on less than five acres*, to an acreage number of something less than the five acres. Mr. Menoche also asked that the Council to change the application fee for Planning and Zoning (\$400.00) to a lesser amount.

Mr. Menoche was advised that the County's Board of Adjustment plans to schedule a workshop on wind mills and turbines and the Council encouraged Mr. Menoche to attend that workshop.

**M 485 08
Amend
Agenda**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to amend the Agenda by moving the Executive Session to immediately follow the two Public Hearings scheduled at 7:30 p.m.

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
(C/Z
No. 1622)**

**Public
Hearing
(C/Z
No. 1622)**

(continued)

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.54 ACRES, MORE OR LESS” (Change of Zone No. 1622) filed on behalf of Gary F. Farmer, DVM.

The Planning and Zoning Commission held a Public Hearing on this application on June 12, 2008 at which time the Commission deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 12, 2008).

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

Gary F. Farmer, DVM, was present with Jim Fuqua, Attorney. They stated that Dr. Farmer is requesting rezoning from AR-1 to CR-1 for the existing veterinary hospital; that the site consists of the veterinary hospital building, a storage building, a fenced kennel area to the rear of the property and a paved parking lot; that Dr. Farmer was granted a Conditional Use in June 1977 to operate the office and hospital; that Dr. Farmer has been practicing at this location for 31 years; that Dr. Farmer plans on continuing his practice; that the purpose of this application is to plan for the future when his business and/or the site may need to be sold; that the purpose of the CR-1 District is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities generally serving a wide area and located primarily along certain existing major thoroughfares where a general mixture of commercial and service activities now exists; that Route 26 is a major thoroughfare; that a mixture of commercial uses already exists; that commercial uses include RV storage, a plumbing business, auto storage, an auto mechanic, a campground, convenience store, golf cart sales and service, RV sales and service, mini-storage and other retail and business uses; that some of the uses are zoned C-1 General Commercial, some are Conditional Uses, and some are non-conforming uses; that the site is located in the Environmentally Sensitive Developing Area, a growth area; that on-site water and septic exists on the site; that the Office of State Planning Coordination waived the requirement that the Application be reviewed through the PLUS process; that DelDOT did not require a Traffic Impact Study; that rezoning the property brings the property into compliance; and that if the use changes, they realize that agency approvals will be required.

Mr. Fuqua submitted Proposed Findings of Fact.

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

**M 486 08
Defer
Action on
C/Z
No. 1622**

**A Motion was made by Mr. Cole, seconded by Mr. Dukes, to defer action on
Change of Zone No. 1622 filed on behalf of Gary F. Farmer, DVM.**

**M 486 08
(continued)**

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
(C/U
No. 1736)**

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 TO EXPAND CONDITIONAL USE NO. 1068 TO INCLUDE TOWING SERVICE AND STORAGE OF VEHICLES AND BOATS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS” (Conditional Use No. 1736) filed on behalf of Matthew and Karen Weidmann.

The Planning and Zoning Commission held a Public Hearing on this application on June 12, 2008 at which time the Commission deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 12, 2008).

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

Mr. Lank distributed copies of the Project Exhibit Booklet which were provided by the Applicant.

Mr. Lank reported that the Applicant was cited and given a Violation Notice on October 6, 2006, which stated that the towing service was not a permitted use. The Applicant applied for a Conditional Use permit on November 27, 2006.

Mr. Lank reported that the previous owner of the property, Robert Mitchell, received a Conditional Use approval (No. 1068) for a mechanic shop for auto and boat repair.

Mr. Lank reported that a letter with a petition of 36 signatures was received from the residents of Sea Wood Estates in opposition to the application.

Matthew and Karen Weidmann were present with David Hutt, Attorney. They stated that they use the property located near the intersection of Robinsonville Road and Plantation Road for the same use as the previous owner, an auto repair shop (now known as Matt’s Auto Repair); that they purchased the property in 2005 with the assumption that the towing

**Public
Hearing
(C/U
No. 1736)
(continued)**

business would be a part of the auto repair business; that they propose to expand the use to include a towing service, which would be an accessory use to the business; that the towing service would result in only 4 additional vehicles on the site; that the parcel contains approximately one acre and is improved by a dwelling and a 2-bay garage/repair shop; that they have owned and operated the business for two years; that their son lives in the dwelling and works jointly with them; that there are approximately 10 other business uses on Robinsonville Road including another automotive repair and towing business; that they provide towing services and are affiliated with AAA; that they are the only AAA provider in the Lewes, Rehoboth, Angola, Milton area; that they have been affiliated with AAA for 20 years; that there is no intent to provide long-term storage of vehicles; that generally cars are held up to 6 or 7 days; that the number of cars on the site varies by need; and that the number of cars on the site can vary from 10 to 30 cars.

Mr. Weidmann responded to additional questions raised by the Council by stating that he does not propose to tow repos, cars parked illegally or cars in accidents. He stated that he deals exclusively with AAA towing.

Mr. Weidmann concluded by stating that this conditional use application is about the towing service and not about the existing conditional use activities.

Mr. Cole stated that the Applicant has been in violation of some of the conditions attached to the original Conditional Use.

The conditions of Ordinance No. 957 (Conditional Use No. 1068) adopted March 15, 1994 were:

- The site plan, including a landscaping plan, shall be subjected to review and approval by the Planning and Zoning Commission.
- Signage shall not be lighted and shall not exceed 6 square feet per side or facing.
- No engine or transmission overhaul work shall be performed outdoors.
- No junk automobiles or boats shall be stored on the site.
- No vehicles or boats shall be stored on site for more than one week.

Public comments were heard.

Brooke Freeman, an adjacent landowner, spoke in support of the application. He stated that he has no complaint with the auto repair shop or the towing business; that any activity on Sundays is minimal; and that some of the complaints against the Applicant have, in fact, been directed at his own property due to equipment he has on his property and crops grown on his property.

Richard Faull, Joseph Donahue, and Mary Guold, residents of Sea Wood

**Public
Hearing
(C/U
No. 1736)
(continued)**

Estates, spoke in opposition to the application. They expressed concerns that they have never seen the site without vehicles parked in the front yard; that they could not acknowledge the other businesses in the area referenced by the Applicant; that the area is primarily residential; that a precedent for more applications could be established by the approval of this application; that the use could negatively impact property values; that Robinsonville Road is a narrow two-lane roadway and that allowing towing would cause a safety hazard for motorists and pedestrians; that farm equipment and school buses travel this road; that there is not a traffic signal at the intersection of Robinsonville Road and Plantations Road; that the use is not compatible with the area; that the use is a heavy duty use and should not be located in a residential area; that the use should be located on a major roadway; that the 1994 Conditional Use was low scale in activities and that it was not obvious that the business was there; that the use will change the character of the area; that there are many cars and weeds on the site; that the use is a major eyesore in the neighborhood; that there is a lot of neighborhood opposition; that the proposed use is a dangerous use in a residential area; and that if the Council approves the application, limitations on the use should be imposed.

Mr. Faull submitted photographs of the area into the record.

The Public Hearing was closed.

**M 487 08
Defer
Action on
C/U
No. 1736**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Conditional Use No. 1736 filed on behalf of Matthew and Karen Weidmann.

Motion Adopted: 5 Yeas.

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

**M 488 08
Recess and
Go Into
Executive
Session**

At 9:07 p.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to recess the Regular Session and to go into Executive Session to discuss pending and potential litigation and land acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 9:08 p.m., an Executive Session of the Sussex County Council was held for the purpose of discussing pending and potential litigation and land acquisition issues. The Executive Session concluded at 9:20 p.m.

**M 489 08
Come**

At 9:21 p.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to come out of Executive Session and to reconvene the Regular Session.

**Out of
Executive
Session/
Reconvene
Regular
Session
M 490 08
Adjourn**

Motion Adopted: **5 Yeas.**

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

**A Motion was made by Mr. Dukes, seconded by Mr. Cole, to adjourn at
9:20 p.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

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