



## *Sussex County Council Agendas & Minutes*

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 15, 2006**

**Call to  
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 15, 2006 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**M 553 06  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to amend the Agenda by deleting the following:

- 11:00 Public Hearing - Dagsboro – Frankford Sanitary Sewer District  
Village of Pepper Creek**
- 11:15 Public Hearing – Dagsboro – Frankford Sanitary Sewer District  
Pepper Creek Crossing**
- 11:40 Consultant Agreement with Gillan and Hartmann -  
Amendment No. 1**
- 12:10 Grant Requests –  
Rehoboth Beach Art League  
Rehoboth Summer Children’s Theatre**
- 12:25 Introduction of Proposed Zoning Ordinances**

**and to approve the Agenda, as amended.**

**Motion Adopted: 5 Yea.**

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

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

**M 554 06**      **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the**  
**Approve**      **minutes of July 18, 2006.**  
**Minutes**

**Motion Adopted:      4 Yea, 1 Abstention.**

**M 554 06**      **Vote by Roll Call:      Mr. Cole, Yea; Mr. Phillips, Abstained;**  
**(continued)**      **Mr. Dukes, Yea; Mr. Jones, Yea;**  
      **Mr. Rogers, Yea**

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

**EDWIN COOKE, CHIEF OF POLICE, TOWN OF BLADES POLICE  
DEPARTMENT, BLADES, DELAWARE.**

**RE: Letter to Councilman Dukes in appreciation of his participation in the  
National Night Out event.**

**DEL-MAR-VA COUNCIL, BOY SCOUTS OF AMERICA.**

**RE: Note to Councilman Jones in appreciation of the Council's recent  
donation for their summer camp program.**

**Adminis-**      **Mr. Stickels read the following information in his Administrator's Report:**  
**trator's**  
**Report**      **1.    Council Meeting Schedule**

**The Sussex County Council will not meet on Tuesday, August 29 or  
Tuesday, September 5, 2006. The next regularly scheduled Council  
meeting after Labor Day will be held on Tuesday, September 12, 2006,  
beginning at 6:30 p.m.**

**Refuge**      **Susan Webb, Director of Accounting, reported that a check in the amount**  
**Revenue**      **of \$67,302.00 was received from the United States Department of the**  
**Sharing**      **Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for**  
**Funds/**      **the Prime Hook National Wildlife Refuge. The check represents payments**  
**Prime Hook**      **under the Refuge Revenue Sharing Act. The amount is calculated by the**  
**National**      **U.S. Fish and Wildlife Service by prorating the total funds available for**  
**Wildlife**      **payment, including refuge receipts and supplemental appropriations.**  
**Refuge/**      **Sussex County may use the funds for any governmental purpose.**  
**Payment**

**in Lieu of**      **Ms. Webb presented for the Council's authorization, the recommended**  
**Taxes**      **distribution of the Refuge Revenue Sharing Funds, as follows: Milford**  
      **School District - \$13,148.59; Cape Henlopen School District - \$42,114.74;**  
      **Sussex Technical High School - \$4,065.45; Library - \$775.82; and Sussex**  
      **County - \$7,197.40. She noted that the funding is received annually as a**  
      **payment in lieu of taxes for the Prime Hook National Wildlife Refuge.**

**Mrs. Webb stated that the total of this year's funding was \$67,302.00, representing an increase of \$8,000.00 over the amount received last year.**

**M 555 06**  
**Authorize**  
**Distri-**  
**bution of**  
**Funding**      **A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the Sussex County Council authorizes the distribution of the Refuge Revenue Sharing Funds, as presented.**  
**Motion Adopted:      5 Yea.**

**M 555 06**  
**(continued)**      **Vote by Roll Call:      Mr. Phillips, Yea; Mr. Cole, Yea;**  
**Mr. Dukes, Yea; Mr. Rogers, Yea;**  
**Mr. Jones, Yea**

**Comment**      **Mr. Rogers stated that he believes some of the funding should go to Emergency Services.**

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

**M 556 06**  
**Execute**  
**Agreements/**  
**Rehoboth**  
**Crossing,**  
**Inc.**      **A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 435, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Rehoboth Crossing, Inc. for wastewater installation to be constructed in Rehoboth Crossing, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

**Motion Adopted:      5 Yea.**

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

**M 557 06**  
**Execute**  
**Agreements/**  
**Lands of**  
**Cummings**  
**& Clark,**  
**G.P.**      **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. 610, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Lands of Cummings & Clark, G.P., for wastewater facilities to be constructed in the Dagsboro/Frankford Sanitary Sewer District.**

**Motion Adopted:      5 Yea.**

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

**Land**      **Mr. Godwin discussed the selection of a consultant to assist with the review**

- Use Consultant Selection** and update of the County's 2007 Comprehensive Land Use Plan. He reminded the Council that on July 18th, the names of the top ranked consultant firms were reported to the Council, as follows: (1) Johnson, Mirmiran & Thompson, (2) Urban Research & Development Corporation, (3) Whitman, Requardt & Associates, and (4) URS Corporation. These firms were ranked by a selection committee. Mr. Godwin reminded the Council that any time delays could cause problems in meeting the deadline of submitting the Land Use Plan Update to the State by October 2007.
- Land Use Consultant Selection (continued)** Mr. Rogers stated that the selection of the consultant is a very important matter and he recommended that the top two consultant firms be invited to the August 22nd Council meeting to give a presentation to the Council. He stated that this would give the Council the opportunity to listen to both firms' thoughts and experiences prior to making a selection. He stated that he believes the consultants should understand the needs of the County, both today and in the future.
- M 558 06 Permit Presentations of Land Use Consultants at 8/22/06 Council Meeting** A Motion was made by Mr. Phillips, seconded by Mr. Jones, that the Council meeting on August 22nd shall convene at 9:00 a.m. for the purpose of permitting Johnson, Mirmiran & Thompson and Urban Research & Development Corporation, the top two selected consultant firms, to give presentations on the County's 2007 Comprehensive Land Use Plan Update.
- Motion Adopted:** 5 Yea.
- Vote by Roll Call:** Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
- Downtown Georgetown Parking Survey/ Location of Annex Building** Mr. Godwin stated that he, along with the County's Public Information Officer, Chip Guy, conducted a Downtown Georgetown parking survey. This survey was performed following discussions on the location of a new County office building and engineering annex.
- Mr. Guy explained that two surveys were conducted:
- (1) A list of the parking spaces that actually exist (214 spaces in parking lots, 469 spaces on side-street parking, and 157 spaces in potential expansion parking projects).
  - (2) A list of available parking on August 3rd (a work day) between 1:30 p.m. and 2:00 p.m. (21 spaces available in parking lots and 285 spaces available on side streets (within one to two blocks).
- In response to questions from the Council, Mr. Godwin stated that, with the exception of reserved spaces, the State's and the County's parking lots are open to the public.
- Mr. Cole questioned "is there a parking problem or not?" Responses were that (1) there are places to park, (2) there is ample off-street parking, (3)

every downtown in America probably has some type of parking problem, it's whether or not you can solve the problem, and (5) it's not a 7-11 store, you can't pull up to the front of the building and park.

Mr. Phillips stated that the response to Mr. Cole's question is subjective and that his concern is accessibility to the building, especially in inclement weather, and especially for the public.

**Downtown  
Georgetown  
Parking  
Survey/  
Location of  
Annex  
Building  
(continued)**

Mr. Stickels stated that to accommodate the new annex building proposed in the Fiscal Year 2007 Budget, there is ample off-street parking to comply with the Town's zoning requirements.

Mr. Dukes stated that he still believes there is a parking problem.

Mr. Cole asked the Council to keep in mind that the County has been acquiring property for parking and that, if the Council wishes to locate the new annex building out of town, they should not use parking problems as a reason.

Mr. Godwin reported on properties that are available to purchase, which are in addition to the list of properties he presented to the Council at the August 1st meeting:

- a 4.8 acre parcel located on Laurel Road immediately behind the West Complex Building, owned by a medical center, of which the center is only using the front portion of the parcel.
- a 2.8 acre parcel on Laurel Road located between the West Complex Building and the high school, currently zoned for townhouses, which is for sale for \$1.1 million (the realtor has stated that the seller would sell it for \$950,000 if no additional town approvals were required).

**Old  
Business/  
Proposed  
Ordinance  
Relating to  
Off-Street  
Parking for  
Multi-  
Family  
Dwellings  
and  
Townhouses**

The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 SECTION 162, RELATING TO THE NUMBER OF OFF STREET PARKING SPACES REQUIRED FOR MULTIFAMILY DWELLINGS AND TOWNHOUSES".

On March 23, 2006, the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance at which time they deferred action. On May 25, 2006, the Commission recommended that the Proposed Ordinance be approved, based on the following:

- The words "bedroom" and "efficiency units" should be specifically defined in the Ordinance or some other method of calculating additional parking spaces above the two spaces per unit shall be used.
- The method of reducing parking spaces for projects that have more than 50 or 200 units should be clarified.

- Any space on a project recovered as a result of a reduced number of parking spaces should be utilized as open space only and should not increase the number of residential units within a project or the commercial space within a project.

The County Council held a Public Hearing on the Proposed Ordinance on April 11, 2006 at which time they deferred action. On June 27, 2006, the Council discussed the Proposed Ordinance and considered the Commission's recommendations. The Council deferred action again for the purpose of allowing staff to further research the three recommendations made by the Commission.

Old  
Business/  
Proposed  
Ordinance  
Relating to  
Off-Street  
Parking for  
Multi-  
Family  
Dwellings  
and  
Townhouses  
(continued)

Mr. Lank noted that the Commission made recommendations but did not specifically say how they want the amendments worded.

Mr. Lank reported that Vince Robertson, Assistant County Attorney, submitted an amended version of the Proposed Ordinance.

Mr. Kautz reviewed the changes in the amended version of the Proposed Ordinance that were submitted by Mr. Robertson. He explained that the proposed changes include the recommendations of the Commission. The following changes were made to Section 1 (b):

For each development in excess of 50 units, the required number of parking spaces shall be reduced by 15% from the required number of spaces set forth in subparagraph (a) above after those spaces required for the first 50 units have been provided; and for each development in excess of 200 units, the required number of parking spaces shall be reduced by 20% from the required number of spaces set forth in subparagraph (a) above after those spaces required for the first 200 units have been provided.

(The underlined words were added in the proposed revisions.)

There was a consensus of the Council to make two additional changes:

- On Page 1, Section 1 (d), Lines 4 and 5 – delete the words “both of which must be located at the same end of the room”. (in reference to kitchens, kitchenettes and bathrooms).
- On Pages 1 and 2, Section 1 (d), Line 9 – add the word “one dining room” to the following sentence – “An accessory room shall mean any room in a dwelling unit other than a bedroom, bathroom, kitchen, one living room, one dining room, or living – dining room combination, including, but not necessarily limited to, a den, library, family room, game room, patio room, Florida room, bar, nursery, etc.”

Mr. Cole stated that he believes that any reference to type of ownership (condo, apartment, etc.) should be eliminated because conversions affect

available parking spaces. There was not a consensus to agree with an amendment to the proposed ordinance on this issue at this time.

**M 559 06**      A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt  
**Adopt**      Ordinance No. 1869 entitled “AN ORDINANCE TO AMEND CHAPTER  
**Ordinance**      115 SECTION 162, RELATING TO THE NUMBER OF OFF STREET  
**No. 1869**      PARKING SPACES REQUIRED FOR MULTIFAMILY DWELLINGS  
                    AND TOWNHOUSES”, as amended.

**M 559 06**      Motion Adopted:      5 Yea.  
**(continued)**  
  
Vote by Roll Call:      Mr. Phillips, Yea; Mr. Cole, Yea;  
                                    Mr. Dukes, Yea; Mr. Rogers, Yea;  
                                    Mr. Jones, Yea

**Legal**      Jim Griffin, County Attorney, left the room and Richard Berl, Assistant  
**Counsel**      County Attorney, joined the meeting.

**Councilman**      Mr. Dukes announced that he would not be participating in the discussion  
**Dukes**      on the appeal filed by Liborio, L.P. due to the fact that he was not in  
**Abstaining**      attendance at the Public Hearing on the appeal. Mr. Dukes excused himself  
                    from the meeting.

**Appeal**      The County discussed an appeal filed by Liborio, LP on the Sussex County  
**filed by**      Planning and Zoning Commission’s decision to approve an application of  
**Liborio,**      Christine Reece and William Cugno (Subdivision No. 2002-39).  
**L.P./ on**

**the Appli-**      Mr. Lank provided a brief history of the application, which was filed on  
**cation of**      October 17, 2002. The Planning and Zoning Commission held a Public  
**Christine**      Hearing on February 20, 2003; granted preliminary approval on March 13,  
**Reece &**      2003; the opposition filed an appeal in court and the court ruled that the  
**William**      Commission was to re-hear the application because their decision did not  
**Cugno**      have a sufficient record of approval; the Commission held a Public Hearing  
                    again on September 8, 2005; and the Commission granted preliminary  
                    approval on October 27, 2005, subject to the following conditions:

1. There shall be only one (1) single family dwelling built on the lot.
2. A fence or screening landscape buffer of at least six (6) feet in height shall be constructed or maintained between the commercial property and this parcel with the exception of an area at least 30 feet from Fairfield Road so as to not impede safe pedestrian or vehicular traffic.

The County Council held a Public Hearing on the appeal on June 6, 2006 at which time they deferred action.

In response to questions raised by the Council, Mr. Berl stated that since the County Council has the power to zone and subdivide, it also has the

**power to rezone and resubdivide. He also stated that the record did not show that the open space was to be permanently maintained and it was not conveyed over to the Property Owners Association, which is typically done with amenities and open space.**

<b>M 560 06 Accept P&amp;Z Recommendation</b>	<b>A Motion was made by Mr. Jones, seconded by Mr. Cole, to accept the recommendation of the Planning and Zoning Commission's decision on Subdivision No. 2002-39, an application of Christine Reece and William Cugno.</b>
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**M 560 06      Motion Adopted:      4 Yea, 1 Absent.**

**(continued)**

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

**Mr. Griffin and Mr. Dukes rejoined the meeting and Mr. Berl exited the meeting.**

<p><b>Consultant Agreement with Delta Airport Consultants/Amendment No. 17</b></p>	<p><b>Mr. Hickin, Project Engineer, presented Amendment No. 17 to the County's Consultant Agreement with Delta Airport Consultants. He reported that the project would provide an environmental assessment for airport projects over the next five years. It would also provide a benefit cost analysis associated with extending the runway at the airport. The amendment, at a total cost of \$634,694.00, would cover property acquisitions, obstructions removal, Runway 4 extension projects, realignment of Park Avenue, conventional hangars and t-hangars, parking and apron expansion, preliminary design for permitting purposes, etc. Mr. Hickin noted that environmental assessments are required in order for the County to get any grant monies from the FAA.</b></p>
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**In response to questions raised by the Council, Mr. Hickin stated that, at the present time, the County would be responsible for the entire cost. Mr. Hickin stated that he is still waiting for a response from the FAA to see if funding will be available. He noted that the County is on the priority list to receive a grant.**

**Mr. Hickin explained that the Proposed Motion includes the wording “pending approval from the County Finance Director”, which provides an allowance for the project to be turned down if the funding does not become available.**

<b>M 561 06 Approve Amendment No. 17/ Consultant Agreement with Delta</b>	<b>A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 17 to the Engineering Agreement between Sussex County and Delta Airport Consultants, Inc. to conduct Runway 4-22 Extension Environmental Assessment and conduct Runway 4-22 Extension Benefit – Cost Analysis for the Sussex County Airport, which increases the original contract amount by \$634,694.00, pending approval of the County Finance Director, DelDOT, and/or the</b>
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**Airport  
Consultants**

**FAA.**

**Motion Adopted: 5 Yea.**

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

**Council  
Update**

**It was decided that if little or no funding is received, the Council would be provided an update on the status of the funding.**

**Tingle  
Road  
Pumping  
Station  
Tingle  
Road  
Pumping  
Station  
Improve-  
ments/  
Contract  
Amendment**

**Russell Archut, Assistant County Engineer, presented Amendment No. 37 to a Design Contract with Whitman, Requardt & Associates (WR&A) for the Tingle Road Pumping Station in Bethany Beach. Mr. Archut explained that the pumping station is about thirty years old. The Design Contract would look at replacing three existing pumps; inspecting and refinishing the wet well; replacing all piping and supports within the wet well; providing odor control; providing a by-pass connection at Tingle Road at Pump Station 99 at Ocean View; and installing new wet well hatches and safety grates. WR&A would assist with bidding the project, holding the pre-bid meetings, etc. Mr. Archut stated that the actual work at the pump stations, as well as design costs, were proposed and approved in this year's budget. The total cost of the contract is \$82,227.00, which is within the Engineering Department's anticipated budget for the work.**

**M 562 06  
Execute  
Amendment  
to Contract  
with WR&A  
for the  
Tingle  
Road  
Pumping  
Station  
Improve-  
ments**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the County Engineering Department, that the Sussex County Council hereby authorizes its President to execute Amendment No. 37, dated June 8, 2006, to its contract with Whitman, Requardt and Associates, LLP, for the Tingle Road Pumping Station Improvements, at a cost not to exceed \$82,227.00, as presented on August 15, 2006.**

**Motion Adopted: 5 Yea.**

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

**SCRWF  
Treatment  
Upgrade  
No. 2**

**Mr. Stewart, Project Engineer, presented Change Order No. 2 to the Treatment Upgrade No. 2 of the South Coastal Regional Wastewater Facilities. He reported that the Change Order is comprised of four items, all of which were recommended by Stearns and Wheler, the Consulting Engineer.**

**M 563 06  
Approve  
Change  
Order for**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the County's Consulting Engineer, Stearns & Wheler, LLC, and the Sussex County Engineering Department, that Change Order No. 2 for Sussex County Contract No. 02-12-B, SCRWF Treatment**

**SCRWF Treatment Upgrade No. 2** Upgrade No. 2 with C.O. Falter Construction Corporation be approved in the amount of \$13,806.42, which increases the contract total, including previously approved Change Order No. 1, from \$15,221,980.24 to \$15,235,786.66, contingent upon the approval of the U.S. Department of Agriculture, Rural Development, and the Financial Assistance Branch, Delaware Department of Natural Resources and Environmental Control.

**Motion Adopted:** 5 Yea.

**M 563 06 (continued)** **Vote by Roll Call:** Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea

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

**M 564 06 Community Investment Grant** A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$1,000.00 from Mr. Rogers' Community Investment Grant Account to the Milton Lions Club for medical equipment.

**Motion Adopted:** 5 Yea.

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

**M 565 06 Community Investment Grant** A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 from Mr. Rogers' Community Investment Grant Account to the Lewes Historical Society to support the Society's participation in the Library Catalog Program.

**Motion Adopted:** 5 Yea.

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

**M 566 06 Councilmanic Grant** A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$250.00 from Mr. Rogers' Councilmanic Grant Account to the Ellendale Community Civic Improvement Association for their annual fundraiser and awards banquet.

**Motion Adopted:** 5 Yea.

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

**M 567 06 Council-** A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500.00 to the Del-Mar-Va Forest No. 201 from Mr. Cole's Councilmanic Grant

**manic Grant**                      **Account for their fundraiser to benefit the Muscular Dystrophy Association.**

**Motion Adopted:        5 Yea.**

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

**M 568 06 Youth Activity Grant**                      **A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$250.00 (\$50.00 from each Youth Activity Grant Account) to Delaware's Junior Miss for their scholarship program.**

**Motion Adopted:        5 Yea.**

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

**M 569 06 Councilmanic Grant**                      **A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500.00 from Mr. Phillips' Councilmanic Grant Account to the Northeast Rally Club for their car rally fundraiser to benefit the Millsboro Volunteer Fire Company.**

**Motion Adopted:        5 Yea.**

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

**M 570 06 Councilmanic Grant**                      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$300.00 (\$100.00 each from Mr. Cole's, Mr. Jones', and Mr. Phillips' Councilmanic Grant Accounts) to the Sussex Central Soccer Boosters to help offset the expenses incurred during the soccer season.**

**Motion Adopted:        5 Yea.**

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

**M 571 06 Councilmanic Grant**                      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$100.00 from Mr. Jones' Councilmanic Grant Account to the Woodbridge High School for the football program.**

**Motion Adopted:        5 Yea.**

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

**Mr. Jones, Yea**

**M 572 06 Youth Activity Grant**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$200.00 from Mr. Jones' Youth Activity Grant Account to the Delaware Stingers to sponsor Jill Guerrazzi at the National Hockey Festival.**

**Motion Adopted:      5 Yea.**

**M 572 06 (continued)**      **Vote by Roll Call:      Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea**

**M 573 06 Recess**      **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess at 11:39 a.m. Motion Adopted By Voice Vote.**

**Reconvene**      **Mr. Dukes called the Council back into session at 1:35 p.m. (Mr. Rogers was not in attendance at the time.)**

**Public Hearing (C/U No. 1664)**      **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 WAREHOUSING AND LIMITED OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 16.8152 ACRES, MORE OR LESS" (Conditional Use No. 1664) filed on behalf of Mark J. and Staci N. Mills.**

**The Planning and Zoning Commission held a Public Hearing on this application on July 27, 2006 at which time they deferred action. On August 10, 2006, the Commission recommended that the application be approved with conditions.**

**(See the minutes of the meeting of the Planning and Zoning Commission dated July 27 and August 10, 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.**

**(Mr. Rogers joined the meeting.)**

**An Exhibit Booklet, which was previously provided by the Applicant, was distributed to the Council members.**

**Mr. Lank reported that one additional piece of correspondence was received from John Ashman of the County Engineering Department. The**

memorandum referred to the site, the use, and the size of the parcel. It stated that the site is not located within a County-operated and maintained sanitary sewer and/or water district; that the site is located adjacent to the Dagsboro Frankford Sanitary Sewer District; that Sussex County is currently conducting a study for the Dagsboro Frankford Sanitary Sewer District and the study is scheduled for completion by August 2007; that the Conditional Use is within the Planning Area; and that the County currently has no schedule to provide service to the parcel.

Public  
Hearing  
(C/U  
No. 1664)  
(continued)

The Council found that Mark J. Mills was present with Tim Willard, Attorney, and Ken Christenbury of Axiom Engineering, LLC. Mr. Willard stated that Mark Mills owns Water Systems Services and he has drilled thousands of wells in Sussex County. He stated that nine positive letters of reference were included along with the Exhibit Booklet. The authors of the letters speak highly of Mr. Mills and support his proposed project. Mr. Willard and Mr. Mills stated that the 16.8-acre parcel located south of Dagsboro contains one out-building; that he proposes to construct warehousing with office space to help meet the demand for office space and warehousing for small contractors; that each warehouse would contain 3,000 square feet of floor space with one main entrance sign; that there would be no outside storage, no retail sales, no food preparation, no manufacturing, no public automotive or small engine repairs, and no residential use on the site; that the project would be an economic benefit to the area; and that there would be no adverse impact to the area or to traffic in the area.

Mr. Willard referred to the recommended conditions of the Commission and specifically Condition (c) which stated that “To comply with the Applicant’s statement that the project will be screened from Route 20, all buildings shall be setback to a point south of the existing tax ditch with the exception of the entrance sign. There shall not be any structures, equipment or vehicles erected, placed or stored between Route 20 and the tax ditch.” He stated that the Commission’s recommended condition of putting everything in the woods would require that more trees be taken out. Mr. Mills stated that it was his intent to spread the buildings out, with only four at the front of the property; that this would save 400 feet of woods; that he would landscape the front four acres but he would maintain a large setback for school traffic, since there is a dangerous turn in that location; that there would be on-site management of the leasing operation; and that he plans for the project to be constructed in phases.

Mr. Willard also referred to the proposed Condition No. (e) that “The driveway to the proposed buildings shall be constructed and paved in accordance with Sussex County Street Design standards.” Mr. Willard stated that the Applicant would like to pave the driveway in phases, due to the economics of it.

Mr. Willard also referred to the proposed Condition No. (f) that “There shall be a 6-foot high security fence erected around the office/warehouse

area south of the tax ditch.” He stated that the 6-foot fence would detract from the natural tree buffer and that the Applicant is trying to preserve trees and has proposed to leave a row of trees along the buffer in lieu of a 6-foot security fence.

Mr. Cole recommended that there be a condition imposed that “there shall be no screening 100 feet from the road” due to the dangerous nature of the curve of the road near the school.

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

**M 574 06**  
**Amend**  
**Conditions**  
**Proposed**  
**by P&Z**  
**Commission**  
**on C/U**  
**No. 1664**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to amend the conditions proposed by the Planning and Zoning Commission on Conditional Use No. 1664, as follows: (1) Condition (c) shall read “Landscape screening shall be provided in front of the proposed buildings along Route 20 with a minimum setback of 100 feet from Route 20.” and (2) Delete Condition (f) that “There shall be a 6-foot high security fence erected around the office/warehouse area south of the tax ditch.”

**Motion Adopted: 5 Yea.**

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

**M 575 06**  
**Adopt**  
**Ordinance**  
**No. 1871**  
**(C/U**  
**No. 1664)**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1871 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WAREHOUSING AND LIMITED OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 16.8152 ACRES, MORE OR LESS” (Conditional Use No. 1664) filed on behalf of Mark J. and Staci N. Mills, with the following conditions:

1. There shall be no more than ten 60’ by 50’ office/warehouse buildings located in the project, in addition to the existing structure.
2. Landscape screening shall be provided in front of the proposed buildings along Route 20 with a minimum setback of 100 feet from the right-of-way of Route 20.
3. The location of the tax ditch setback line shall be shown on the final site plan.
4. The driveway to the proposed buildings shall be constructed and paved in accordance with Sussex County street design standards.

**M 575 06**  
**Adopt**  
**Ordinance**  
**No. 1871**  
**(C/U**  
**No. 1664)**  
**(continued)**

5. A central leasing and management office shall be maintained on site.
6. No Sunday hours of operation shall be permitted.
7. Any lighting shall be installed only on the buildings and shall be screened so that the lights do not shine on neighboring properties or towards Route 20.
8. There shall be one sign at the entrance to the property not larger than 32 square feet in size designating the offices. Each building shall be allowed to have one sign not to exceed 12 square feet in size.
9. There shall be no retail sales, no food preparation, no manufacturing and no public automotive or small engine repairs performed on site.
10. There shall be no outside storage permitted at any of the proposed buildings, including the building that currently exists on the property.
11. This project shall comply with all DelDOT entrance requirements.
12. On the final site plan, the location of all parking and fire lanes shall be specifically shown, along with all overhead doors providing access to the buildings.
13. In addition, the location of the dumpsters shall be shown on the final site plan. All dumpsters shall be screened from view.
14. The final site plan shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all agency approvals.

**Motion Adopted: 5 Yea.**

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

**M 576 06**  
**Amend**  
**Agenda**  
**to Permit**  
**Discussion**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda to permit the discussion of “Additional Business” immediately following the Public Hearing.**

**Motion Adopted: 5 Yea.**

of

**Additional  
Business**

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

**Transportation  
Program  
Funding  
Program  
(continued)**

**Mr. Stickels stated that Reimbursable Transportation Funding for Sussex County Senior Services/CHEER was discussed at the August 8th meeting. Since that time, the CHEER Center has advised that if they do not receive an answer from the Council in regards to funding for the Roxana bus route, they would have to eliminate that route. Mr. Stickels stated that if there was no objection from the Council, the matter would be placed on the August 22nd agenda.**

**Supplemental  
Grant  
Funding  
Requests**

**Mr. Stickels also stated that, if there was no objection from the Council, supplemental grant funding requests would also be placed on the August 22nd agenda, including grant requests from First State Community Action Agency, NCALL, Diamond State Community Land Trust, Surface Water Management Study (DNREC), University of Delaware College of Agriculture (Safety Agent), and the Reimbursable Transportation Program.**

**M 577 06  
Adjourn**

**A Motion was made by Mr. Cole, seconded by Mr. Jones, to adjourn at 2:27 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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