

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 27, 2002

Call to Order The regular meeting of the Sussex County Council was held Tuesday, August 27, 2002, 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
George B. Cole	Member
Dale R. Dukes	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Eugene Bayard	County Attorney

Proposed Amendments to Agenda Mr. Stickels discussed several proposed amendments to the Agenda.

Mr. Stickels asked that the Agenda be amended by deleting "French & Ryan, Terminal Building, Supplemental Agreement".

Mr. Stickels advised Council that a letter has been received from Jeffrey S. Burton requesting permission to withdraw his Conditional Use Application (C/U No. 1461) that was scheduled for Public Hearing before the Sussex County Council on this date beginning at 1:30 p.m.

M 521 02 Amend Agenda A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to delete "French & Ryan, Terminal Building, Supplemental Agreement" and "Public Hearing: Conditional Use No. 1461, Jeffrey Scott Burton" from the Agenda.

Motion Adopted: 5 Yea.

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

M 522 02 Permit Withdraw of C/U No. 1461 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to permit Jeffrey Scott Burton to withdraw his Conditional Use application (Conditional Use No. 1461).

Motion Adopted: 5 Yea.

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

M 523 02 **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adopt the Agenda, as amended.**
Adopt
Amended
Agenda

Motion Adopted: 5 Yea.

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

M 524 02 **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of August 13, 2002.**
Approve
Minutes

Motion Adopted: 5 Yea.

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

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

NICOLE L. HADAWAY, TEAM IN TRAINING, THE LEUKEMIA AND LYMPHOMA SOCIETY, WILMINGTON, DELAWARE.

RE: Letter in appreciation of grant.

U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA, PENNSYLVANIA.

RE: Public Notice concerning issuance of a Department of the Army permit.

MAYOR MICHAEL R. BLOOMBERG, THE CITY OF NEW YORK, NEW YORK, NEW YORK.

RE: Letter in appreciation of donation to New York City following the tragedy of September 11th.

Recog-
nition of
Catherine
Derrickson
EMS
Dispatcher

Ms. Catherine Derrickson, Sussex County Emergency Medical Dispatcher, was recognized for her outstanding performance during the time period January – June, 2002. Ms. Derrickson handled the highest percentage of calls and maintained a very high compliance score. Mr. Thomas, Director of Emergency Operations, reported that Ms. Derrickson handled 13.2 percent of 4,687 emergency medical dispatch calls received during the time period January – June, and that during that time, she maintained a compliance rating of 99.83 percent.

M 525 02
Adopt
Tribute

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt the Tribute commending “the men and women of the fire service and ambulance personnel of Sussex County for their dedication and commitment to protecting our quality of life”.

Motion Adopted: 5 Yea.

M 525 02 (continued)	Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Service of Heroes	The Tribute will be presented at the Service of Heroes which will be held on Sunday, September 8, 2002 at 6:30 p.m. at Carey's Camp in Millsboro.
Joint Resolution Encouraging Water Conservation	Mr. Stickels read a Joint Resolution of the Sussex County Council, Tidewater Utilities, Inc., and Artesian Water Company, Inc. to encourage water conservation. Mr. Stickels commented on the public's concerns about the lack of rain in Sussex County this summer. The National Weather Service has estimated that rainfall in Sussex County for calendar year 2002 is 17.3 inches, 8.4 inches below normal. Ms. Sheila Dolan of Tidewater Utilities, Inc., and Mr. Stuart Lindner and Mr. John Houghton of Artesian Water Company, Inc., were present to report on the lack of rain in each of three counties in Delaware and to discuss the importance of water conservation. Mr. Houghton stated that the State is now 20 inches below normal for rainfall. Mr. Houghton also stated that reports of dry wells in the State involve very shallow wells (30 to 35 feet deep) and that only 13 percent of the well permits granted this year were to replace wells that have gone dry.
	Mr. Stickels stated, and the representatives of both companies agreed, that Sussex County has not been as significantly impacted by the lack of rain as Kent and New Castle County have been.
	Ms. Dolan and Mr. Lindner reported that they are not experiencing any supply problems and do not expect to experience any problems; and that even with the growth in Sussex County and the lack of rain this summer, they do not foresee any problem with serving the residents of Sussex County. Nevertheless, they encouraged voluntary conservation of water.
M 526 02 Adopt Joint Resolution	A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt the Joint Resolution entitled "ENCOURAGING THE PRUDENT USE OF A PRECIOUS NATURAL RESOURCE – WATER". Motion Adopted: 5 Yea.
	Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Administrator's Report	Mr. Stickels read the following information in his County Administrator's Report:

Administrator's
Report
(continued)

1. **County Government Closing**

County government offices will be closed Monday, September 2, 2002, to allow County employees to observe Labor Day. Offices will reopen at 8:30 a.m. on Tuesday, September 3.

There will not be a Council meeting on Tuesday, September 3, 2002. The next regularly scheduled Council meeting will be Tuesday, September 10, at 10:00 a.m. in the Council Chambers, County Administrative Office Building, Georgetown.

2. **Celebration of America**

The County Council will be hosting a ceremony on The Circle on Wednesday, September 11, 2002, entitled "A Celebration of America." The program will start at 8:30 a.m. and will end at 10:38 a.m. The program will include representatives from the County's 21 fire departments, military representatives, public safety representatives, the Milford Community Band, and Sussex Academy of Arts and Sciences choir.

I would encourage residents of Sussex County to attend this ceremony marking the first anniversary of the 9/11 tragedy.

Request
to With-
draw
C/U
No. 1459
(Centers
for
Neurology

M 527 02
Permit
the
Withdraw
of C/U
No. 1459
(Centers
for
Neurology)

Old
Business/
C/Z
No. 1469
(Caroline
Develop.)

Mr. Lank, Director of Planning and Zoning, reported that he has received a letter from Robert J. Varipapa, MD, dated August 20, 2002, requesting permission to withdraw the application of Center for Neurology, L.L.C. for a conditional use for medical offices on Route 24 (Conditional Use No. 1459). In his letter, Dr. Varipapa stated that the owner of the property has refused to grant them an extension on their contract. (The County Council held a Public Hearing on this application on August 13, 2002 at which time action was deferred for the submission of a revised plan.)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to permit the withdrawal of Conditional Use No. 1459, an application of Center for Neurology, L.L.C.

Motion Adopted: 5 Yea.

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

Change of Zone No. 1469 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 BALTIMORE HUNDRED, SUSSEX COUNTY,

**Old Business/
C/Z**

**No. 1469
(Caroline Develop-
ment)**

(continued)

CONTAINING 139.367 ACRES, MORE OR LESS" filed on behalf of Caroline Development, Inc. was discussed.

The Planning and Zoning Commission held a Public Hearing on this application on May 23, 2002; on June 27, 2002, the Commission recommended that the application be approved, with conditions.

The County Council held a Public Hearing on this application on June 11, 2002, at which time action was deferred for submission of comments from the County Engineering Department and from Whitman, Requardt & Associates. Mr. Bayard advised that the reports indicated that there is adequate capacity to serve the project.

It was the consensus of Council to strike the condition recommended by the Planning and Zoning Commission that "the maximum area of the commercial development shall be 1.5 acres and the commercial uses shall be limited to retail stores or shops for the general convenience of the area, but not including the sale of alcohol or gasoline products and that the commercial structure shall not exceed 5,000 square feet in size" and to replace it with the condition that "there shall be no commercial activity of any kind".

**N 528 02
Adopt
Ordinance
No. 1558
(C/Z
No. 1469)**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1558 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 139.367 ACRES, MORE OR LESS" (Change of Zone No. 1469) filed on behalf of Caroline Development, Inc., with the following conditions:

1. The maximum number of dwelling units shall not exceed 208, of which no more than 84 shall be multi-family units.
2. There shall be no commercial development of any kind.
3. Residential building permits shall not exceed 60 per year.
4. Site plan review is required for each phase of development.
5. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be on at least one side of the road, which is developed exclusively for single-family residential lots, with sidewalks on both sides of the entrance corridor. A single sidewalk system serving town houses shall have continuous paths and shall separate the residential units from parking areas and driveways (to be built to driveway standards under the zoning ordinance) serving the town houses. Access to the existing lots on Indian River Bay and Bennett Beach shall not be denied.
6. All entrances, intersections, roadway improvements and multimodal facilities required by DelDOT shall be completed by the applicant as

**M 528 02
(continued)**

required by DelDOT and in accordance with any further modification required by DelDOT.

7. Recreational facilities, e.g., swimming pool, tennis court, etc. shall be constructed and open to use by the residents within two years of the issuance of the first building permit.
8. The RPC shall be served by an existing or an extended Sussex County sanitary sewer district.
9. The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
10. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. If it is determined that additional areas are required for stormwater management, parking, or other use, the additional area shall be taken from lot areas, not designated State or Federal wetlands or open space areas.
11. State wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas.
12. No individual boat dock or boat launching facilities for motorized boats shall be permitted. A community boat launching for non-motorized or sail boats may be constructed upon receipt of all applicable permits, site plan review and compliance with all applicable rules and regulations.
13. No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.

Motion Adopted: 5 Yea.

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

**Findings
of Fact**

The Council found that the change of zone was appropriate legislative action based on the following findings of fact:

- A. The proposed development's location is appropriate for MR/RPC zoning.

**Findings
of Fact
(continued)**

- 1. MR zoning is appropriate for this parcel of land. The purpose of the MR Zoning District is to provide medium-density residential development in areas expected to become generally urban in character and where the central water and sewer may be available. The application is consistent with the stated purpose of MR zoning;**
- 2. A Residential Planned Community (RPC) designation is appropriate for this parcel of land. The purpose of an RPC is to encourage large scale developments using design ingenuity to create superior living environments while protecting existing and future developments and achieving the goals of the Comprehensive Plan. This application is consistent with the stated purpose of an RPC zoning designation.**

B. The proposed development is in accordance with the 1997 Sussex County Comprehensive Plan in that:

- 1. It is located in the designated development district where future growth is directed;**
- 2. The development will be served by Sussex County sewer and by central water provided by Tidewater Utilities;**
- 3. The adjacent and nearby properties are already developed with extensive residential uses and a private golf course;**
- 4. The development is consistent with the Plan's housing element and community design element in that it provides a range of housing for permanent residents to serve the existing and projected demand for housing in the area. The Comprehensive Plan projects an increase in the number of households in Sussex County during the 1990 to 2020 time period from 43,483 to 73,292 establishing a need for additional housing units;**
- 5. The 208 residential unit density proposed is less than that permitted by the RPC Ordinance and is the same as the density currently permitted by AR zoning;**
- 6. The Plan recognizes that higher residential density is appropriate for sites in the development district in order to obtain the Plan's goal of preserving agricultural areas by concentrating development in the planned development district;**
- 7. The site is consistent with the development patterns recognized in the State of Delaware proposed strategies for State Policies and Spending and is located in the environmentally sensitive developing area under the State Map;**
- 8. The site is consistent with the Comprehensive Plan's Future Land Use Map;**
- 9. The nature of the development is consistent with the design, variety, and community interaction goals of the Plan;**
- 10. The development is consistent with the Plan's goal of passive and active recreational facilities as part of a residential development in that significant physical amenities will be provided including a clubhouse, swimming pool, tennis courts, and walking trails;**
- 11. The development is consistent with the State of Delaware Plans of**

**Findings
of Fact
(continued)**

State Policy & Spending. The site is located in the environmentally sensitive developing area. The development is designed to minimize impact on the inland bays.

C. The requested change of zone promotes the health, safety, morale, convenience, order, prosperity, and welfare of the present and future inhabitants of Sussex County based on the evidence and testimony presented by the applicant including the following:

1. Adequate fire and police protection are available nearby;
2. That the character of the area is appropriate for the proposed development. There are existing residential developments surrounding the site including both single family homes and townhouses.
3. The development is consistent with the historical trend of development in the area and with the intended plan for future development as stated in the Comprehensive Plan. Nearby developments are zoned HR (high density) and MR (medium density). While the site will be zoned MR, the density of 208 units will maintain AR zoned density.
4. That adequate central water (from Tidewater Utilities, Inc.) and County sewer facilities and capacities are available and that there will be no adverse impact on nearby properties;
5. That adequate utility services and shopping areas are conveniently accessible from the site.
6. That the development will provide a substantial direct economic impact to Sussex County in terms of sewer fees, property taxes and transfer taxes and will create a significant secondary economic impact;
7. That the property is located in an existing mixed residential area zoned AR and GR designated as a development district and the proposed development will have no adverse effect on the uses or values of existing property and will conserve property values;
8. Natural resources will be conserved and there will be no adverse environmental impact in that the site will provide a 50 foot buffer from State wetlands. County sewer and water will be provided and storm water management will be designated in full compliance with the requirements of all State and County agencies;
9. That the density and design of the development will provide residential housing at an appropriate density in a planned development area thus providing protection of agricultural lands elsewhere in the County as intended by the Land Use Plan;
10. Entrance and roadway improvements shall be in accordance with the requirements of DelDOT. Because the density of the development is consistent with the density already permitted by the current AR zoning, the development will have no significant traffic impact over and above what the property could generate under its present zoning.

Wastewater Facilities **Mr. Green, Director of Utility Construction, discussed the construction of wastewater facilities.**

M 529 02 Execute Agreements/ The Village at Kings Creek **A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 276, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Oasis Property Management for wastewater facilities to be constructed in The Village at Kings Creek, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

Motion Adopted: **3 Yea, 2 Absent.**

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

(Mr. Dukes and Mr. Phillips were out of the room when the vote was taken.)

M 530 02 Execute Agreements/ Bethany Breeze **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 263, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bethany Beach Development, L.L.C. for wastewater facilities to be constructed in Bethany Breeze, located in the South Bethany 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 531 02 Grant Beneficial Acceptance/ Jefferson Bridge Town-houses **A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 239, that the Sussex County Council grant Beneficial Acceptance for the wastewater facilities to be constructed in Jefferson Bridge Townhouses, located in the South Bethany Sanitary Sewer District.**

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

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

(Mr. Rogers was out of the room when the vote was taken.)

**South
Coastal
Library
Parking
Lot
Addition/
Bid
Results**

Mr. Izzo, County Engineer, discussed the South Coastal Library Parking Lot Addition Project, a project which will provide 41 additional parking spaces. Mr. Izzo reported that the State will provide a 50 percent grant for the project and therefore, State wage rates will be required. The State grant is limited to \$200,000.

Mr. Izzo reported on the bid results for the project and pointed out that the low bidder is Melvin Joseph. He noted however, that their bid of \$142,738.00 is considerably higher than the Engineering Estimate of \$104,734.18. Other bidders received were from A.P. Croll (\$155,373.50) and Sparr (\$157,675.00).

Mr. Izzo advised that there are two options to be considered: (1) reject all bids and value engineer the project, or (2) award the bid to the low bidder at the amount of \$142,738.00.

Mr. Izzo advised that a meeting will be scheduled with the low bidder to attempt to value engineer the project and come up with credit change orders that will reduce the overall cost of the project. Mr. Izzo will report back to Council with a recommendation. No action was taken.

**Cedar
Neck
Expansion
of the
BBSSD/
Collection
and
Conveyance/
Contract A/
Bid Award**

Mr. Izzo discussed the bid results for the Cedar Neck Sanitary Sewer District, Cedar Neck Road Collection & Conveyance, Contract 99-12A. Mr. Izzo stated that this project has been broken down into five separate contracts and that this construction is Contract A. Bid results were reported to Council on August 13, 2002. Three bids were received; the low bid was received from American Paving Corporation in the amount of \$1,684,712.50. All of the bids came in under budget.

Mr. Izzo reported that there is concern as to American Paving Corporation's ability to perform the work since the majority of their work constitutes paving and not underground utilities. Mr. Izzo advised Council that the contractor's references have been checked out; that they have a reasonable amount of deep pipeline experience; that the Engineering Department had a scoping meeting with the contractor; that the Department thinks that the project can get the job done with this contractor; that the savings outweigh the concerns about the contractor; and that the Department recommends awarding the bid to American Paving Corporation.

**M 532 02
Award
Bid for
Cedar
Neck
Road
Collection
and
Conveyance**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP and the Engineering Department, that Sussex County Project No 99-12A, Cedar Neck Road Collection & Conveyance, be awarded to American Paving Corporation of Eden, Maryland at the bid amount of \$1,684,712.50, contingent upon the receipt of approval from the Delaware Department of Natural Resources and Environmental Control and/or Rural Utility Service.

M 532 02 (continued)	Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
SCRWF Expansion Phase II/ Stearns & Wheler Contract	Mr. Izzo reviewed an Amendment to a Proposed Design Contract with Stearns & Wheler, LLC for the Phase II Expansion of the South Coastal Regional Wastewater Facility. The Amendment is for the engineering design services and bid-phase engineering services related to the Sludge Handling Upgrade.
Amendment	Mr. Izzo explained that currently the South Coastal Regional Wastewater Facility is capable of handling a peak flow of approximately 6 Million gallons per day. Stearns & Wheler and the County have worked together to perform a preliminary engineering design and are looking at increasing the hydraulic capacity to approximately 9 million gallons per day (average daily flow). SCRWF would then be capable of handling a peak flow of 14 million gallons per day. The project is estimated to be completed in late 2005/early 2006. This would provide capacity at SCRWF until approximately 2025.
	Mr. Izzo advised that the proposed amendment would allow an upgrade to the sludge handling capabilities. Currently, a Class B sludge is manufactured and it is proposed that a Class A sludge would be manufactured. The Class A sludge would be pasteurized, removing all pathogens, allowing for safer handling and a safer product which can be used as fertilizer year-round. (The Class B fertilizer can only be used seasonally.) The total project cost is estimated at \$4.5 million; a SRF loan has been obtained to perform the work. Mr. Izzo reported that the total cost of the design contract with Stearns & Wheler is approximately \$299,000 and that it is planned that the system will be on-line in the Summer of 2004.
M 533 02 Approve Amendment No. 1/ Stearns & Wheler Contract/ SCRWF Expansion Phase II	A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the recommendation of the County Engineering Department, that Amendment No. 1 to the Agreement with Stearns & Wheler, LLC be approved to provide design services for a biosolids upgrade for the second expansion to the South Coastal Regional Wastewater Facility. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
South Coastal Expansion	Mr. Izzo discussed the South Coastal Regional Wastewater Facility Building Expansion Project, a project for the office addition to the existing administrative building at the Facility.

(continued) The contractor, Roberts Construction, completed the project on time and under budget.

M 534 02 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the County Engineering Department, that Roberts Construction of Frederica, Delaware be granted Substantial Completion, effective July 22, 2002, for Sussex County Project No. 00-01, Building Addition to the South Coastal Regional Wastewater Facility, and that any held retainage be released.

Grant Substantial Completion/ South Coastal Building Expansion Motion Adopted: 5 Yea.

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

Sussex County Airport/ Award P.A.P.I. and R.E.I.L. Light Installation Mr. Sapp, Project Engineer, reported on Sussex County Project No. 02-06, Furnish and Install P.A.P.I. (Precision Approach Path Indicator) & R.E.I.L. (Runway End Identifier Lights) lights at the Sussex County Airport. Mr. Sapp advised Council that the existing Runway End Identifier Lights are in bad shape and need to be replaced. Mr. Sapp also advised that some of the existing Approach Slope Indicator Lights do not work and that the lights are obsolete; replacement parts are not available; and they need to be replaced with Runway End Identifier Lights.

Mr. Sapp reported that this project was planned for an emergency installation to replace the existing lights. Bids were solicited and John W. Tieder, Inc. was the only company to bid on the project. The bid submitted by John W. Tieder, Inc. was in the amount of \$74,980.00; the Engineer's estimate was \$100,000. The project is eligible for 90 percent funding from the FAA; the remaining 10 percent will be paid by the State and the County.

M 535 02 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the County Engineering Department, that Sussex County Council awards Sussex County Project No. 02-06, Furnish and Install P.A.P.I. and R.E.I.L. Lights at Sussex County Airport to the low bidder, John W. Tieder, Inc., in the amount of \$74,980.00, pending approval from DelDOT and the FAA.

Motion Adopted: 5 Yea.

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

South Coastal Area Mr. Archut, Assistant County Engineer, discussed an extension to the County's contract with Whitman, Requardt & Associates for planning work and design construction in the South Coastal area.

**South
Coastal
Planning
Area/
WR&A
Contract
Extension
(continued)**

Mr. Archut reported that in 1997, the County selected the consulting firm of Whitman, Requardt & Associates to perform all the planning, design, inspection and contract administration work in the South Coastal area. It was the intent at that time to engage them for a term of five years, with an expiration date of December 31, 2002, so that the County did not have to continually go through the consultant selection process. The projects at that time were the Ocean View Project, the Holts Landing Project, and the Cedar Neck Project. The Holts Landing Project and the Ocean View Project have been completed; however, the County continues to receive requests for additional work in the South Coastal area, i.e. Cedar Neck Expansion, Bay View Estates, Sea Country Estates, Miller Creek, South Ocean View, and Millville/North Millville Planning Areas. In addition, an update to the South Coastal Planning Study needs to be done.

Mr. Schrader, Assistant County Attorney, has advised that it would be appropriate for the County to retain the consulting firm of Whitman, Requardt & Associates (WR&A) past the expiration date. However, he recommended that the Contract be limited to an extension on a year-to-year basis for the purpose of reviewing their work performance.

Mr. Archut stated that the Engineering Department is satisfied with WR&A's work; they are thorough and responsive; they have the lowest overhead rate of all the consultant's used; and they have not come to the County for any contract increases.

The Engineering Department is proposing that the County continue to retain the firm on a year-to-year basis, with their performance to be reviewed annually. It was noted that using the same consulting firm provides continuity to projects and is beneficial to the County compared to changing consulting firms and having to educate them on the County's projects. It was further noted that the County does diversify by using different consultants for other projects.

**M 536 02
Approve
Contract
Extension/
WR&A/
South
Coastal
Planning
Area**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, that the Consulting Firm of Whitman, Requardt & Associates of Baltimore, Maryland, will continue to perform all wastewater work in the South Coastal Planning Area, subject to an annual review of their performance, except that the Sussex County Council reserves the privilege of readvertising the consultant selection procedure for future wastewater work, at its discretion.

Motion Adopted: 5 Yea.

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

Requests

Mr. Stickels presented requests for grant funding.

M 537 02 Council- manic Grant	<p>A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$250.00 from Mr. Phillips' Youth Activity Account to the Town of Millsboro for the youth basketball program.</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
M 538 02 Council- manic Grant	<p>A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$300.00, \$150.00 each from Mr. Jones' and Mr. Rogers' Councilmanic Account, to the Prospect African Methodist Episcopal Church to assist those in need from the community.</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Action Tabled	<p>No action was taken on the funding request from the Bad Company Softball Team, an adult softball team, requesting funding for trip expenses.</p>
Proposed Ordinance	<p>Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MANUFACTURING COUNTERTOPS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.01 ACRES, MORE OR LESS" (Conditional Use No. 1471) filed on behalf of Joseph and Anne Pleasanton. The Proposed Ordinance will be advertised for Public Hearing.</p>
Proposed Ordinance	<p>Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (48 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12.58 ACRES, MORE OR LESS" (Conditional Use No. 1472) filed on behalf of Caldera Properties, L.P. The Proposed Ordinance will be advertised for Public Hearing.</p>
Proposed Ordinance	<p>Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (160 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED,</p>

Proposed Ordinance (continued) **SUSSEX COUNTY, CONTAINING 40.74 ACRES, MORE OR LESS” (Conditional Use No. 1473) filed on behalf of Caldera Properties, L. P. The Proposed Ordinance will be advertised for Public Hearing.**

Proposed Ordinance **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 LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.109 ACRES, MORE OR LESS” (Conditional Use No. 1474) filed on behalf of David A. and Karen Sposato. The Proposed Ordinance will be advertised for Public Hearing.**

Amend Sequence of Public Hearings **Mr. Bayard recommended that the sequence of the Public Hearings scheduled for 1:30 p.m. be changed, as follows: Change of Zone No. 1476, Conditional Use No. 1462, Conditional Use No. 1463. Council concurred with Mr. Bayard’s recommendation.**

M 539 02 Recess **At 12:05 p.m., a Motion was made by Mr. Cole, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **Mr. Jones called Council back into session at 1:35 p.m.**

Application Withdrawn **Mr. Jones announced that the application of Jeffrey Scott Burton (Conditional Use No. 1461) was withdrawn.**

Public Hearing (C/Z No. 1476) **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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 19,769 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1476) filed on behalf of Marvin and Wayne Adams.**

The Planning and Zoning Commission held a Public Hearing on this application on August 8, 2002 at which time they recommended that the application be approved. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Marvin Adams was present and stated that the sole purpose of the application is to bring the site into conforming zoning with other uses in the area; that they plan to offer the site to neighboring properties for purchase; and that the site is surrounded by commercial uses.

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

**M 540 02
Adopt
Ordinance
No. 1559
(C/Z
No. 1476)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1559 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 19,769 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1476) filed on behalf of Marvin and Wayne Adams.

Motion Adopted: 5 Yea.

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

**Findings
of Fact**

The Council found that the change of zone was appropriate legislative action based on the following findings of fact:

- 1. The applicant established by substantial evidence that the change of zone will bring the property into conformity with surrounding zoning classifications, consistent with the purposes and goals of the Comprehensive Land Use Plan, without adverse impact of any sort.**
- 2. The findings of fact and recommendations of the Planning and Zoning Commission were incorporated herein.**

**Public
Hearing
(C/U
No. 1463)**

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 AN ELECTRIC SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.09 ACRES, MORE OR LESS" (Conditional Use No. 1463) filed on behalf of Delaware Electric Cooperative.

The Planning and Zoning Commission held a Public Hearing on this application on August 8, 2002 at which time they recommended that the application be approved with conditions. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Ms. Cynthia Longobardi, Attorney, and Mr. James Gardner of Delaware Electric Cooperative were present and stated that the application is for infrastructure necessary to distribute electricity to customers; that Delaware Electric has been concerned about load growth and system reliability in their service area east of US 113 and south of the Indian River; that they propose to build an electrical substation on approximately 6 acres along Sussex Road 353 and about 750 feet east of Sussex Road 369; that their goal is to locate the electrical substation adjacent to the transmission line that presently crosses the back of the property; and that this location

**Public
Hearing
(continued)**

will provide a reliable source of power into this area as additional capacity and will provide additional backup to existing substations.

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

**M 541 02
Adopt
Ordinance
No. 1560
(C/U
No. 1463)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1560 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRIC SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.09 ACRES, MORE OR LESS” (Conditional Use No. 1463) filed on behalf of Delaware Electric Cooperative, with the following conditions:

- 1. All security lighting shall be directed into the substation and shall not be directed toward residential homes on Road 353.**
- 2. Landscaping shall be provided along the front and sides of the fenced area.**
- 3. The substation area shall be fenced.**
- 4. The area set aside for the substation shall not exceed the dimensions of 250 feet by 250 feet.**
- 5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.**

Motion Adopted: 5 Yea.

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

**Findings
of Fact**

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

- 1. The applicant established by substantial evidence that the proposed use will better serve the electricity needs of the surrounding area, consistent with the purposes and goals of the Comprehensive Land Use Plan. With the five conditions heretofore imposed, there will be no adverse impact of any sort.**
- 2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.**

**Public
Hearing**

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 DOCTORS

Public
Hearing
(C/U
No. 1462)

OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 33,435 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1462) filed on behalf of Michael A. and Judith B. Poleck.

The Planning and Zoning Commission held a Public Hearing on this application on August 8, 2002 at which time action was deferred. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. William Schab, Attorney, and Dr. Michael Poleck were present and stated that the application is for a medical office building; that the proposed building has been designed to resemble a dwelling; that it is not cost effective to renovate the existing building; and that, if at all possible, the existing building will be moved from the site and not demolished.

Mr. and Mrs. Donald Anderson, present owners of the site, spoke in support of the application and stated that most of the people who have looked at the home wanted office space and that the area has changed over the years to business uses.

Mr. Raymond Quillen spoke in support of the application stating that there are many doctors offices and other business and commercial uses in the area; that the area is not residential anymore; that a doctor's office would have a minimal impact on traffic; that 12 parking spaces are not excessive especially when compared to other doctors' offices that have been approved on Savannah Road; and that there will be no negative impact to next door neighbors. Mr. Quillen submitted a petition containing 22 signatures in support of the application.

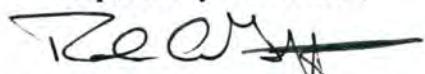
Comments were heard in opposition to the application. Concern was expressed that it would be a shame to destroy an existing single family residence and replace it with an office building; that the use will create additional traffic problems on Savannah Road; that there is no need for additional office space since there are several professional office spaces unoccupied and for rent/lease in the immediate area; and that the neighborhood should remain a residential neighborhood.

The Public Hearing was closed and action was deferred.

M 542 02
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 3:20 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council