

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 16, 2003

**Call to
Order**

The regular meeting of the Sussex County Council was held Tuesday, September 16, 2003, at 6:30 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**M 508 03
Approve
Agenda**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to approve the Agenda, as distributed.

Motion Adopted: 4 Yea, 1 Nay.

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

Mr. Phillips stated that there were too many agenda items for the time allotted.

**M 509 03
Approve
Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the minutes of September 9, 2003, as distributed.

Motion Adopted: 5 Yea.

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

**Corre-
spondence**

Mr. Griffin read the following correspondence:

JOE MACHREY.

RE: Letter commending County employees Julie Cooper and Crystal Adams for exceptional customer service.

**Safe
Haven
Animal
Sanctuary**

Mary Anne Fleetwood, Lois Fargo, Diane Peterson, and Teresa Figgs were present to discuss a non-profit program, the Safe Haven Animal Sanctuary. The Sanctuary will be a no-kill, humane facility with a strong adoption program which will provide a safe and loving home for abused, neglected, and homeless cats and dogs in Sussex County. It is the goal of the Sanctuary to ease the burden on all the animal organizations in Sussex County. Safe Haven will be offering five slots for cats or dogs to the Georgetown SPCA on a continuing basis and slots will be provided for other rescue organizations. Ms. Fleetwood asked Council for a letter of support which will be used for funding purposes.

**M 510 03
Support
Safe
Haven
Animal
Sanctuary**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to authorize the County Administrator to prepare a letter indicating the County Council's support of the Safe Haven Animal Sanctuary.

Motion Adopted: 5 Yea.

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

**Funding
Request**

Mr. Stickels presented a funding request from First State Community Action Agency.

**M 511 03
County
Council
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,500.00 from County Council Grants to First State Community Action Agency to help replace the carpet in their central office in Georgetown.

Motion Adopted: 5 Yea.

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

**Adminis-
trator's
Report**

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

1. Cancellation of Leave

Please be advised that due to the threat posed by Hurricane Isabel, I have authorized department heads to cancel the leave of any employees considered essential in the preparation for this storm, emergency services during the storm, and the aftermath of this storm. The Emergency Operations Office was staffed at 8:30 a.m. on Monday, September 15, 2003, in preparation of the storm and will continue in 24-hour operation until necessary.

The general public in need of information should call 856-7366 for non-emergency incidents. Any emergency incidents should still use 9-1-1.

**Administrator's
Report
(continued)**

2. Engineering – Beneficial Acceptance

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

- West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Eagle Point, 3-34-6-Parcel 523, Agreement No. 286
- South Bethany Sanitary Sewer District, The Village at Bear Trap Dunes, Phase 4, 1-34-13-Parcel 78, Agreement No. 291

Included with this report are fact sheets on these projects.

3. Sussex County Capital Transportation Improvement Program Request

Included with this report is a copy of the Capital Transportation Improvement Program Request that I presented to the Delaware Department of Transportation on Thursday, September 11, 2003, at their public hearing in Georgetown. This year's requests are estimated at \$750 million. A new request in this year's program is found on Page 18 for the upgrading of Road 213, Old State Road, Ellendale. In my presentation I tried to emphasize the importance of upgrading local roads that are listed starting on Page 19.

I was once again disappointed that there were no committee members from New Castle or Kent County at the Sussex County meeting, other than the Chair who resides in Kent County. The committee is authorized to have up to nine members, but currently there are only seven appointed. I had asked that the Sussex County Association of Towns be given the ability to appoint another committee member.

**Industrial
Park
Lease**

Mr. Masten, Director of Economic Development, reported to Council that MVP Properties, Inc. are requesting that their lease for Lot No. 14 at the Sussex County Industrial Park be terminated. Mr. Stickels reported that the environmental assessment requirements delayed MVP Properties, Inc. from locating on the site and they could not wait any longer.

**M 512 03
Terminate
Lease/
MVP
Properties**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council terminates the lease with MVP Properties, Inc., dated April 1, 2000; the site leased by MVP Properties, Inc. was Lot No. 14 at Cedar Avenue, Sussex County Industrial Park.

Motion Adopted: 5 Yea.

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

**Industrial
Park
Lease**

Mr. Masten introduced Mr. Bob Horsey, owner of Superior Lawn & Landscaping, LLC, who is interested in leasing Lot No. 14 at Cedar Avenue, Sussex County Industrial Park. Mr. Horsey advised that he would construct a warehouse on the lot. Superior Lawn & Landscaping LLC employs approximately 75 people. The terms of the lease will be thirty years at a rate of \$400.00 per acre (approximately four acres) for the first five years, increasing \$200.00 per acre every five years thereafter. It was noted that the terms of the lease are not transferable to another tenant.

**M 513 03
Execute
Lease/
Superior
Lawn &
Land-
scaping**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the President of the Sussex County Council is authorized to execute a 30-year lease with Superior Lawn & Landscaping, LLC for Lot No. 14, consisting of approximately 3.92 acres on Cedar Avenue, in the Sussex County Industrial Park. The lease will be prepared by the County Attorney and will be contingent on a review by the County Administrator and the Director of Finance, and any other approvals which are necessary.

Motion Adopted: 5 Yea.

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

**Industrial
Park
Lease**

Mr. Masten introduced Andy Cannon and Andy Lambert of SchagrinGas of Delaware who are interested in leasing Lot No. 13B at the Sussex County Industrial Park. SchagrinGas of Delaware is a propane gas distribution business. Mr. Cannon and Mr. Lambert advised that they will be constructing propane storage tanks on the lot and will be utilizing the rail service at the Industrial Park. The terms of the lease will be thirty years at a rate of \$400.00 per acre for the first five years, increasing \$200.00 per acre every five years thereafter. The terms of the lease are not transferable to another tenant. Mr. Cannon and Mr. Lambert agreed that their firm would cover any fire protection/improvement costs. It was noted that this stipulation should be incorporated into the lease.

**M 514 03
Execute
Lease/
Schagrin
Gas of
Delaware**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the President of the Sussex County Council be authorized to execute a 30-year lease with SchagrinGas of Delaware for Lot No. 13B, consisting of three acres on Cedar Avenue, at the Sussex County Industrial Park. The lease will be prepared by the County Attorney and contingent on a review by the County Administrator, the Director of Finance, and any other approvals which are necessary.

Motion Adopted: 5 Yea.

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

**Settle-
ment
with
CES
Wireless**

Mr. Luedtke, Director of EMS, reported that in August of 2000, a proposal was approved to upgrade the Automatic Vehicle Locator (AVL) System as part of the CAD project. In May of 2001, CES Wireless Technologies (based in Florida) submitted a proposal which purported to meet the County's needs. Their agent repeatedly assured the County that the CES product could connect with the County's on-board computers, AVL and GPS equipment. Mr. Luedtke noted that much of the contract was verbal and no documentation exists of the assurances provided by CES. During the ensuing months, it was determined that the system would not deliver what was promised.

Mr. Luedtke advised that in March of 2003, he sent a letter to CES requesting a refund of \$16,809.00, which reflected the original purchase price of the equipment as well as the return of another piece of equipment (wireless modem) owned by the County.

In April of 2003, County staff met with the County Attorney to determine the best course of action. Mr. Griffin referred to the lack of documentation and the fact that with CES being located in Florida, legal action would not be financially prudent. It was agreed at that time to contact CES to try and reach a settlement. CES responded that they would return the one non-CES unit owned by the County (which has since been returned) and either (a) return the 16 GPS-200 units to the County or (2) keep the 16 units and pay the County a total of \$1,900.00. Mr. Luedtke noted that the 16 units are now of no use to the County since their technology is considered obsolete.

**M 515 03
Accept
Settlement
Agreement/
CES
Wireless**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, that the Sussex County Council accepts the terms of the proposed settlement agreement between Sussex County and CES Wireless Technologies.

Motion Adopted: 5 Yea.

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

**Wastewater
Facilities**

Mr. Green, Director of Utility Construction, discussed wastewater facilities to be constructed in the Dagsboro-Frankford Sanitary Sewer District.

**M 516 03
Execute
Agreements/
Cea Dag
Enterprises**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 333, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Cea Dag Enterprises for wastewater facilities to be constructed in Cea Dag Multi Unit Development, located in the Dagsboro-Frankford Sanitary Sewer District.

Motion Adopted: 5 Yea.

**M 516 03
(continued)**

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

**Public
Hearing/
Millville-
North
Millville
Expansion
of the
BBSSD**

A Public Hearing was held to consider extending the Bethany Beach Sanitary Sewer District (BBSSD) to include lands lying west of the Town of Ocean View which encompasses the town of Millville and subdivisions lying north and south of the Town of Millville.

Mr. Archut, Assistant County Engineer, reported that the Sussex County Engineering Department conducted a public meeting to review the findings of the Millville and Holts Landing Facilities Plan and Environmental Assessment on June 2, 2003. There were approximately 118 people in attendance. The record was also left open for written comments. No objections were received regarding the expansion of the sewer system to serve the area. There was strong support for the proposal.

Mr. Archut reviewed the user cost estimates. He noted that, with Council's approval, the Engineering Department is considering phasing the project with all construction being completed by June 2008.

A letter from the Town of Millville was read into the record in support of the expansion.

Public comments were heard:

- **A question was raised as to why the boundaries of the expansion are gerrymandered and not in straight lines.**
- **Frances Bazzoli requested that her property be excluded from the proposed expansion.**
- **Albert Arrighi, President of the Bethany Forest Homeowners Association, requested that consideration be given to incorporate Bethany Forest if the expansion should include Bay Forest.**
- **Comments were made that the costs were too high for the elderly and persons on fixed incomes.**
- **Comments were made that the County needs to move forward with the project since there are many failing septic and sewage systems in the area and since the area is close to the bay.**

It was noted that properties included in the proposed expansion could be excluded; however, additional properties cannot be added without going through the advertisement/public meeting/public hearing process again.

Mr. Cole expressed concern that some of the land included in the proposed expansion is undeveloped farmland.

The Public Hearing was closed.

**Public
Hearing
(continued)**

Mr. Archut asked Council to defer action so that he could look at the location of Frances Bazzoli's property to determine whether it can be excluded or not.

**M 517 03
Defer
Action/
Millville-
North
Millville
Expansion**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to defer action on the Millville – North Millville Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

**SCRWF
Sludge
Handling
Upgrade
Project**

Mr. Izzo, County Engineer, reported on the bid results for Sussex County Project No. 02-12, South Coastal Regional Wastewater Facility, Sludge Handling Upgrade, as follows:

**Bearing Construction \$3,466,835.00
Sudlersville, MD**

**C.S. Falter \$3,529,101.00
Syracuse, NY**

Mr. Izzo advised that the Engineer's Estimate for the project is \$3,383,000.00. He noted that the low bid is approximately \$85,000 above the Engineer's Estimate.

Mr. Izzo reported that he has met with the subcontractor and it has been determined that the scope of work requested and the specifications are beyond what is needed and therefore there will be a cost savings in the form of a credit change order in the approximate amount of \$68,250.00.

**M 518 03
Award
Bid/
SCRWF
Sludge
Handling
Upgrade
Project**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Engineering Consultants, Stearns & Wheler, LLP, and the Sussex County Engineering Department, that Sussex County Project No. 02-12, Sludge Handling Upgrade, be awarded to Bearing Construction, Inc. of Sudlersville, Maryland at the bid amount of \$3,466,835.00, contingent upon the receipt of approval from the Department of Natural Resources and Environmental Control and/or the Rural Utility Service.

Motion Adopted: 5 Yea.

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

**Consulting
Agreement**

Mr. Izzo, County Engineer, discussed a Proposed Agreement with Gillen and Hartman, Inc. to provide Consulting Services for fire suppression improvements at the Sussex County Airport and Industrial Park. Mr. Izzo stated that the consultant would perform an evaluation of the existing system and make recommendations for the planning and design of improvements.

**M 519 03
Execute
Agreement/
Gillen and
Hartman/
Fire
Protection
Consulting
Services**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Council Engineering Department, that the Sussex County Council President be authorized to execute an Agreement with Gillen and Hartman, Inc. to provide consulting services for the planning and design of fire protection water system improvements for the Sussex County Airport and Industrial Park, subject to the approval of the Assistant County Attorney and the Internal Auditor.

Motion Adopted: 5 Yea.

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

**Request
to Re-
consider
Application
(C/U
No. 1481)**

Mr. Lank, Director of Planning and Zoning, advised Council of a letter, dated September 5, 2003 received from Darryl and Felicia Matthews, applicants of Conditional Use No. 1481. This application was denied on March 18, 2003 since the applicants were not present at the County Council's Public Hearing and therefore, there was no representation in support of the application.

Mr. and Mrs. Matthews wrote that they misunderstood the process for approval and that is why they were not in attendance on March 18, 2003. They noted that due to the misunderstanding, they have purchased a \$17,000.00, 50 foot x 30 foot building, scheduled to be delivered on October 7th. Mr. and Mrs. Matthews asked to have their Public Hearing heard before the Sussex County Council for reconsideration, without having to go through the entire process again.

Mr. Lank advised that, on March 20th, the Planning and Zoning Commission recommended that Conditional Use No. 1481 be approved.

Mr. Lank noted that, should Council approve the request for reconsideration, the Public Hearing before the County Council would have to be re-advertised.

**M 520 03
Readvertise
and
Reschedule
Public
Hearing
(C/U 1481)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to re-advertise and reschedule the Public Hearing for the reconsideration of the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR'S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.202

M 520 03 **ACRES, MORE OR LESS” (Conditional Use No. 1481) filed on behalf of**
(continued) **Darrell L. and Felicia A. Matthews.**

Motion Adopted: 5 Yea.

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

Old **The County Council considered the Proposed Ordinance entitled “AN**
Business **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR**
(C/U **MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY**
No. 1494) **DWELLING STRUCTURES (7 UNITS) TO BE LOCATED ON A**
 CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE
 HUNDRED, SUSSEX COUNTY, CONTAINING 0.61 ACRES, MORE OR
 LESS” (Conditional Use No. 1494) filed on behalf of Buchanan Builders,
 Inc.

The Planning and Zoning Commission held a Public Hearing on this application on June 12, 2003 at which time the Commission deferred action. On July 10, 2003 the Commission discussed the application under Old Business and recommended approval with nine conditions. The findings and recommendations of the Commission were admitted as part of the County Council’s record.

The County Council considered the recommendations of the Commission.

M 521 03 **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt**
Adopt **Ordinance No. 1632 entitled “AN ORDINANCE TO GRANT A**
Ordinance **CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY**
No. 1632 **RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING**
(C/U **STRUCTURES (7 UNITS) TO BE LOCATED ON A CERTAIN PARCEL**
No. 1494) **OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX**
 COUNTY, CONTAINING 0.61 ACRES, MORE OR LESS” (Conditional
 Use No. 1494) filed on behalf of Buchanan Builders, Inc., with the following
 conditions:

- 1. The site plan shall be revised as necessary so that the buildings conform to the Zoning Code’s requirements for size and distance between buildings.**
- 2. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on any neighboring residential properties.**
- 3. The maximum number of residential units shall not exceed seven single-family condominium units.**
- 4. All entrance, intersection, roadway, and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s determination.**
- 5. The development shall be served as part of a Sussex County Sanitary Sewer District.**

**M 521 03
(continued)**

6. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable statutes and regulations.
7. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
8. The site plan shall be subject to approval by the Planning and Zoning Commission.
9. Construction, site work, grading and deliveries of construction materials, etc., to the property shall only occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Saturday.
10. Street naming and addressing shall be subject to the approval of the Mapping and Addressing Department

Motion Adopted: 5 Yea.

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

**Old
Business/
Proposed
Ordinance
Relating
to the
Environ-
mentally
Sensitive
Develop-
ment
District**

Mr. Tom Shafer, the County's Land Use Consultant; Mr. Lank, Director of Planning and Zoning; and Mr. Richard Kautz, Certified Land Use Planner, discussed the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING AN ENVIRONMENTALLY SENSITIVE DEVELOPMENT DISTRICT OVERLAY ZONE".

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on August 14, 2003 at which time they recommended that the Ordinance be approved with the conditions that the list of considerations under Section B.2. include "consideration of historic and cultural resources" and that Section E, be deleted in its entirety.

The County Council held a Public Hearing on the Proposed Ordinance on August 26, 2003 at which time they deferred action since Council wanted to consider the comments received at the Public Hearing and since they requested that Mr. Lank and Mr. Shafer prepare a report indicating any proposals that they think should be added to the Proposed Ordinance.

Mr. Shafer distributed and reviewed a summary of (1) comments received at the Public Hearing and (2) recommended changes to the Proposed Ordinance. (The report is attached to and made a part of these minutes.) Mr. Shafer distributed Draft No. 2 of the Proposed Ordinance which incorporates the recommended changes.

Mr. Cole suggested that the County Council should receive a recommendation on Proposed Zoning Ordinances from the Planning and Zoning Commission and a separate recommendation from the Planning and Zoning staff (Director and/or Land Use Planner).

(continued) It was the consensus of Council to defer action on the Proposed Ordinance for two weeks.

M 522 03 At 9:00 p.m., a Motion was made by Mr. Jones, seconded by Mr. Phillips, to
Recess recess for fifteen minutes. Motion Adopted by Voice Vote.

Reconvene Mr. Rogers called Council back into session at 9:15 p.m.

Public A Public Hearing was held on the Proposed Ordinance entitled "AN
Hearing ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF
(C/Z SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL
No. 1513 DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT
and FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN
C/U BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 34.09
No. 1502) ACRES, MORE OR LESS" (Change of Zone No. 1513) filed on behalf of
Windmill Ventures, LLC and the Proposed Ordinance entitled "AN
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR
MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY
DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED,
SUSSEX COUNTY, CONTAINING 34.09 ACRES, MORE OR LESS"
(Conditional Use No. 1502) filed on behalf of Windmill Ventures, LLC.

The Planning and Zoning Commission held a Public Hearing on these applications on August 28, 2003 at which time action was deferred. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the record of this Public Hearing.

Mr. Lank read a letter from Frank Minner of Minner Group LLC in support of the application.

The Council found that James A. Fuqua, Attorney for the Applicant, was present. Mr. Fuqua introduced the principals of the project: Hugh and Marilyn O'Neal, Patrick Montague and Gregory Carson.

Mr. Fuqua distributed an exhibit book, which had been submitted previously for the record, and a list of fourteen proposed conditions.

Mr. Fuqua noted that there are two separate applications, a change of zone application from AR to MR and a conditional use application for 106 townhouses. The information submitted by Mr. Fuqua was the same information contained in the summary of the Planning and Zoning Commission's Public Hearing.

Mr. Jerry Friedel of Davis, Bowen & Friedel, Inc. reviewed the site plan and the engineering of the project. Mr. Brooks Clayville of Atlantic Resources Management, Inc., who performed the environmental study, was also present.

**Hearing
(continued)**

Public comments were heard and concern was expressed that the proposed development is too dense; that the townhouses are not compatible with the single-family character of the area; that the roads cannot service additional development; that a 30 foot buffer is inadequate; and that 106 townhouses would have a negative impact on the area.

Mr. Rogers noted that he would like Condition No. 13, as proposed by the applicant, to be deleted since he does not feel that it is appropriate for the County Council to mandate a donation to the fire company. Condition No. 13 states that "The developer has indicated that \$100.00 will be collected at the original settlement for the local fire company and that \$100.00 per year per unit will be collected as part of the condominium fee and donated to the local fire company by the Condominium Association."

**Defer
Action**

It was the consensus of Council that action be deferred on Change of Zone No. 1513 and Conditional Use No. 1502.

**Public
Hearing
(C/U
No. 1503)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SELF-STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 40,293 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1503) filed on behalf of Elton and Donna Murray.

The Planning and Zoning Commission held a Public Hearing on this application on August 28, 2003 at which time they recommended that the application be approved with eight conditions. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary, along with the findings and recommendation of the Commission, were admitted as part of the record of this Public Hearing.

The Council found that Elton Murray was present on behalf of the application. The information provided by Mr. Murray was the same information summarized in the report of the Planning and Zoning Commission's Public Hearing.

Mr. Cole asked Mr. Murray to provide landscaping along County Road 346, if the application was approved. Mr. Murray indicated that he did not have a problem with that condition.

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

**M 523 03
Adopt
Ordinance
No. 1633
(C/U
No. 1503)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1633 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SELF-STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 40,293 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1503) filed on

**M 523 03
(continued)**

behalf of Elton and Donna Murray, with the following conditions:

- 1. There shall be no more than 67 self-storage units on the site.**
- 2. All doors to the units shall face into the interior of the site.**
- 3. The eight-foot metal security fence, which was erected by Delaware Electric Cooperative enclosing the entire site, will not be removed.**
- 4. The entrance shall comply with all of DelDOT's requirements. The entrance location shall remain the same. The gate will be moved back into the site.**
- 5. Most of the site will be paved, especially between the buildings.**
- 6. There shall be no outside storage except for storage owned by the applicant.**
- 7. Security lights will be installed, but will not impact neighbors or traffic on Road 346.**
- 8. There will be no well or septic system on the site.**
- 9. A landscaping plan for the area along Road 346 shall be submitted with the site plan.**

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/U
No. 1504)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR EXPANSION OF CONDITIONAL USE NO. 1290 (ORDINANCE NO. 1323) FOR ADDITIONAL OFFICES AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" (Conditional Use No. 1504) filed on behalf of Nardo, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on August 28, 2003 at which time action was deferred. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the record of this Public Hearing.

The Council found that Shawn Tucker, Attorney for the Applicant, and Dino Nardo were present on behalf of the application. The information provided by Mr. Tucker and Mr. Nardo was the same information summarized in the report of the Planning and Zoning Commission's Public Hearing.

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

M 524 03
Defer
Action
(C/U
No. 1504)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to defer action on Conditional Use No. 1504, filed on behalf of Nardo, Inc.

Motion Adopted: 5 Yea.

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

Requests

Mr. Stickels submitted grant requests for Council's consideration.

M 525 03
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$300.00 (\$200.00 from Mr. Cole's and \$100.00 from Mr. Phillips' Councilmanic Accounts) to the Indian River High School Volleyball Boosters to help supplement the girls volleyball program.

Motion Adopted: 5 Yea.

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

M 526 03
Youth
Activity
Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$250.00 (\$50.00 from each Youth Activity Grant Account) to the Mid-Coast All-Star Cheerleading for operating expenses.

Motion Adopted: 5 Yea.

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

M 527 03
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$125.00 from Mr. Jones' Councilmanic Account to Woodbridge High School for Nicole Bailey's participation in the Spanish Club's trip to Spain.

Motion Adopted: 5 Yea.

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

M 528 03
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$200.00 from Mr. Rogers' Councilmanic Account to H. O. Brittingham Elementary School/Parent Teachers Organization (HOB/PTO) for the 2003 – 2004 PARTNER Program.

Motion Adopted: 5 Yea.

**M 528 03
(continued)**

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

**Proposed
Ordinance**

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.51 ACRES, MORE OR LESS” (Change of Zone No. 1534) filed on behalf of H2E2, LLC. The Proposed Ordinance will be advertised for Public Hearing.

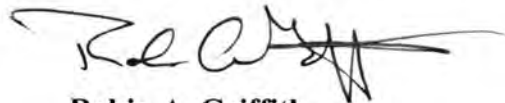
**Proposed
Ordinance**

Mr. Phillips 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 MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.35 ACRES, MORE OR LESS” (Change of Zone No. 1535) filed on behalf of Fenwick Commons, LLC. The Proposed Ordinance will be advertised for Public Hearing.

**M 529 03
Adjourn**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to adjourn at 10:50 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



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