

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 30, 2003

Call to Order The regular meeting of the Sussex County Council was held Tuesday, September 30, 2003, at 10:00 a.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

Request to Amend Agenda Mr. Stickels asked Council to amend the Agenda to include an Executive Session following Additional Business for the purpose of discussing land acquisition. Mr. Stickels noted that it was urgent that the matter be placed on the Agenda on this date, instead of waiting until the next Council meeting.

M 540 03 Amend and Approve Agenda A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda to include an Executive Session to be held for the purpose of discussing land acquisition, and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 541 03 Approve Minutes A Motion was made by Mr. Dukes, seconded by Mr. Jones, to approve the minutes of September 16, 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

M 542 03 Approve Minutes A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of September 23, 2003, as distributed.

Motion Adopted: 5 Yea.

**M 542 03
(continued)**

**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:

**LAUREL HISTORICAL SOCIETY, LAUREL, DELAWARE.
RE: Letter in appreciation of grant funding.**

**SEAFORD HISTORICAL SOCIETY, SEAFORD, DELAWARE.
RE: Letter in appreciation of grant funding.**

**GEORGE H. BUNTING, JR., SENATE, STATE OF DELAWARE,
DOVER, DELAWARE.
RE: Copy of a letter sent to the Public Service Commission requesting that
a statewide critique be done of Hurricane Isabel and how well it was
handled.**

**GLENN LUEDTKE, DIRECTOR, SUSSEX COUNTY EMERGENCY
MEDICAL SERVICES, GEORGETOWN, DELAWARE.
RE: Commending the outstanding actions of the Sussex County EMS
Paramedics during Hurricane Isabel with special recognition of John
Kinsley, Technical Services Division Manager.**

**BILL DAVIS RACING, INC., HIGH POINT, NORTH CAROLINA.
RE: Letter in appreciation of the hospitality received at the Sussex County
Airport.**

**Women
Supporting
Women**

**Tammy Rust, Coordinator for the Sussex County Chapter of Women
Supporting Women, was in attendance to inform the Council about the
Chapter's purpose and to request a financial contribution to help get the
Sussex County program up and running.**

**Women Supporting Women is a Breast Cancer Support Group whose
purpose is to provide a safe, supportive, informal environment to meet and
share experiences, information, etc. with other women who have been
diagnosed with breast cancer. Currently, Sussex County meetings are held
monthly at a donated space in the Nanticoke Indian Center. They are
seeking a permanent facility to be used for office space and a meeting room.**

**M 543 03
Council-
manic
Grant**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give
\$1,000.00 (\$200.00 from each Councilmanic Account) to Women Supporting
Women for the establishment of a Sussex County Chapter.**

Motion Adopted: 5 Yea.

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

**Center
for the
Inland
Bays/
Grant**

The County Council presented a check in the amount of \$50,000 to Dr. Bruce Richards, Executive Director, and Rick Eakle, Chairman of the Board, Center for the Inland Bays. The contribution from Council is for the Center's \$1 million capital campaign for future offices and educational facility.

**Compre-
hensive
Annual
Financial
Report
Award**

Mr. Stickels announced that Sussex County has received the "Certificate of Achievement for Excellence in Financial Reporting" for Fiscal Year 2002 from the Government Finance Officers Association for its comprehensive annual financial report. The Certificate of Achievement is the highest form of recognition in the area of governmental accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management. It was noted that this is the first time Sussex County has received this award. The following County employees were recognized with a Tribute for their assistance in achieving excellence in financial reporting: David B. Baker, Susan M. Webb, CPA, Mary Holley-Matthews, Jeffrey E. James, William C. Townsend, Eddie C. Sparpaglione, Patricia Faucett, Christopher L. Parker, and Nancy J. Cordrey. Also recognized was Jefferson, Urian, Doane, & Sterner, P.A., the County's auditors.

**Laurel
Redevelop-
ment
Corporation
Grant
Proposal**

Mr. Stickels reported that the County has received funding from the State of Delaware which was made possible by Senator Robert Venables and Representative Clifford "Biff" Lee. Mr. Stickels announced that the funding is being transferred to the Laurel Redevelopment Corporation for the following projects: parking, sidewalks, riverwalk, landscaping for parcels between Front Street and Broad Creek River, etc.

Senator Venables and Representative Lee were present and explained that the funding has to be given to a local government and then the local government can give it to a non-profit organization. He reported that a total of \$119,400 has been allocated.

Mr. Stickels reported that \$56,417.00 in funding has been received to date, with the balance of the funding to be received at a later date. Mr. Dukes and Mr. Phillips will present the check to the Laurel Redevelopment Corporation.

**MOU
between
Sussex
County
and the
Delaware
Office of
State
Planning
Coordina-
tion**

Ms. Connie Holland, Director, Delaware Office of State Planning Coordination, and Mr. Stickels discussed the Proposed Memorandum of Understanding (MOU) between Sussex County and the Delaware Office of State Planning Coordination, which was discussed previously at the September 23rd Council meeting.

Mr. Stickels reviewed the amended MOU which reads as follows:

WHEREAS, the State of Delaware has determined that certain local land use decisions have far reaching and complex effects on the region, resulting in development which often requires the commitment of finite resources by the various levels of government as well as private investors; and

**MOU
(continued)**

WHEREAS, coordinated review of certain development activities would result in a more efficient, effective and timely use of resources and would also achieve consistency and coordination between the various levels of government and other interested parties; and

WHEREAS, under Title 29, Chapter 92 of the Delaware Code, local land use planning actions by local governments are subject to pre-application review processes by the Office of State Planning Coordination (OSPC); and

WHEREAS, under Title 29, Section 9205 (c) of the Delaware Code, the OSPC shall, through a Memorandum of Understanding, exempt a local jurisdiction from the provisions of the Land Use Planning Act or modify the pre-application process when the local jurisdiction has a Certified Comprehensive Plan and imposes a more stringent review of projects;

NOW, THEREFORE, IT IS HEREBY AGREED AND UNDERSTOOD by and between Sussex County, Delaware and the Office of State Planning Coordination as follows:

A. The following land use planning actions are and shall remain subject to State review under Title 29, Chapter 92, Delaware Code:

- 1. Any Residential Planned Community in Sussex County Code, Chapter 115.**
- 2. Major residential subdivisions containing more than 50 dwelling units, as defined in Title 29, Section 9203(a)(1).**
- 3. Any non-residential subdivision or site plan involving the expansion of an existing structure by 25 percent with a total floor area exceeding 75,000 square feet or new construction involving structures or buildings with a total floor area exceeding 75,000 square feet.**
- 4. Any rezoning within the Environmentally Sensitive Development District identified in Sussex County's Comprehensive Plan Update adopted December 10, 2002, that would increase intensity or residential density.**
- 5. Any application for rezoning that is inconsistent with the Sussex County Comprehensive Plan Update adopted December 10, 2002.**
- 6. Any local land use regulation, ordinance or requirement referred to the Office of State Planning Coordination by Sussex County for the purpose of providing the County with advisory comments. These include the modifications to the County's zoning and subdivision ordinances that implement the Comprehensive Plan.**
- 7. Any amendment, modification or update to the Sussex County Comprehensive Plan, as required by Title 9 of the Delaware Code.**

B. In special circumstances, the Office of State Planning Coordination may waive the pre-application requirements of Title 29, Chapter 92 of the Delaware Code. Where such waiver is granted, the Office of State Planning Coordination shall provide a written explanation of the causes for the waiver to the relevant local jurisdiction and the applicant. These

**MOU
(continued)**

circumstances may include, but are not limited to, a local government's imposition of a more stringent review of projects enumerated in §9203(a) than required by Title 29, Chapter 92 of the Delaware Code, and/or projects expected to provide an extraordinary benefit to the State and the local jurisdiction through economic development, job creation, educational opportunities, public services or facilities, agricultural preservation, or protection and enhancement of the natural environment; and

C. This Memorandum of Understanding may be revised from time to time as circumstances warrant, only with the concurrence of both Sussex County and the Office of State Planning Coordination.

Mr. Stickels explained that the purpose of the amendment to A (3) is to treat existing structures the same way as new structures. Mr. Stickels noted that this is more consistent with State Law and Senate Bill No. 65.

Mr. Phillips referred to the second paragraph regarding a "coordinated review of certain development activities..." stating that suggestions have been made that this may be an opportunity to bring everyone involved in the process to the table at one time. Mr. Phillips questioned if there were any problems with County agencies attending these pre-application meetings along with the State agencies. Ms. Holland stated that County agencies are encouraged to attend. Mr. Phillips questioned whether these meetings could be held in Georgetown since the public has a right to have access to the meetings, even though public comment will not be permitted. Ms. Holland responded that it will be necessary for the meetings to be held in Dover so that they are centrally located for all three counties. She noted that applications to be discussed at the meetings will come from all over the State and that there will be better attendance by State agencies in Dover.

**M 544 03
Execute
MOU
with the
Delaware
Office of
State
Planning
Coordi-
nation**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to authorize the President of the Sussex County Council to execute a Memorandum of Understanding between the Sussex County Council and the Delaware Office of State Planning Coordination, as amended.

Motion Adopted: 3 Yea, 2 Nay.

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

**Adminis-
trator's
Report**

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

1. Disaster Recovery Centers

The State of Delaware and the Federal Emergency Management Agency have opened two Disaster Recovery Centers to assist individuals who suffered losses from the recent storm. Disaster Recovery Centers are open in New Castle and Sussex counties, Monday through Saturday from 9:30 a.m. to 6:30 p.m. The Sussex

**Adminis-
trator's
Report
(continued)**

County Center is located at the Sussex County Emergency Operations Center, 100 Airport Road, Georgetown, Delaware. The New Castle Center is at St. Mark's United Methodist Church, 1700 Limestone Road, Wilmington, Delaware.

Staff will answer questions and provide recovery information. Written materials about disaster assistance programs will be available to individuals and business owners. Low-interest disaster loan applications for individuals and businesses from the U.S. Small Business Administration will also be available.

2. Property Tax

Property taxes for the Sussex County government and school districts are due without penalty at the close of business September 30, 2003. The Sussex County Tax Office will remain open until 7:30 p.m. on Tuesday, September 30, 2003.

**Public
Hearing/
Proposed
Ordinance
Relating
to a
C-2 Large
Scale
Commercial
District**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING A C-2 LARGE SCALE COMMERCIAL DISTRICT".

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on September 11, 2003 at which time they deferred action. Mr. Lank, Director of Planning and Zoning, read a synopsis of the Commission's Public Hearing, which was incorporated into the record of this Public Hearing.

Mr. Lank summarized the comments of the Delaware Office of State Planning Coordination. He noted that their concern with this proposed ordinance is a technical one; that the intent of the ordinance is to move Section 115-77.1 from Article XI, C-1 General Commercial District, to create a new district; that the ordinance, as written, copies that section from Article XI but does not amend Article XI to remove that section and disallow commercial developments exceeding 75,000 square feet; that without that measure, the Office does not see the purpose in creating the C-2 District.

Mr. Lank reported that no additional written comments were received on the Proposed Ordinance.

Thomas Shafer, of Shafer Consulting, and Rick Kautz, Land Use Planner for Sussex County, were present and stated that this Proposed Ordinance is in response to the Comprehensive Plan and mirrors the strategies that were adopted by the County Council in the Plan.

Mr. Shafer and Mr. Kautz suggested several amendments to the Proposed Ordinance:

**Public
Hearing
(continued)**

- The term “total gross building area” should be “total gross floor area”, because floor area is defined in the zoning ordinance.
- That “roof” should be added to the section relating to permitted signs.
- When the original amendment creating Chapter 115, Section 77.1 of the Sussex County Code was adopted, requirements relating to parking lot landscaping and screening of loading areas were made referencing the C-1 District. The same changes would have to be made to Sections 166.1 and 170.1 referencing the C-2 District.

Public comments were heard.

Mr. Dan Kramer referred to the 75,000 square feet designation and questioned whether a project with 74,999 square feet would fall under the C-2 designation. Mr. Stickels responded that a 74,999 square feet project would fall under the C-1 designation.

Mr. Preston Dyer of Dyer McCrea Ventures, LLC stated that the C-1 Large Scale Commercial District is not listed as an important recommendation in the Land Use Plan; that it is merely referenced as a suggestion to implement the Plan to create a new commercial zone for large buildings; that the thrust of the Proposed Ordinance does not reflect the comments made during the Land Use Plan process; that the ordinance does not reflect the fact that “big boxes” are stand-alone retail establishments; that the synopsis statement is incorrect; that the Proposed Ordinance does not provide any new protections; that amusement parks are not addressed in permitted uses or conditional uses; that adoption of this Proposed Ordinance will result in some landowners subdividing their land resulting in additional entrances and exits; that the Proposed Ordinance would only affect existing C-1 property; and that Chapter 115, Section 77.1 of the Sussex County Code is still appropriate and protections incorporated in that section are sufficient.

Mr. Rich Collins spoke on behalf of the Positive Growth Alliance in opposition to the Proposed Ordinance since all existing C-1 zonings that have a total existing floor space over 75,000 square feet would become non-conforming; since property owners would have to go to the Board of Adjustment to make any changes or additions to buildings; since no C-2 ground exists and public hearings and rezoning requests would be required in all cases; since the Proposed Ordinance might prevent modern communities such as Americana Bayside that combine retail space with residential; and since C-2 zoning would eliminate the possibility of apartments over commercial buildings. Mr. Collins submitted a letter into the record from the Positive Growth Alliance.

The Public Hearing was closed and action was deferred.

**Public
Hearing/
B-1 and
C-1
Districts**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO AMEND THE PROVISIONS RELATING TO RESIDENTIAL USES IN THE B-1 AND C-1 COMMERCIAL ZONING

**Public
Hearing/
Proposed
Ordinance
Relating
to the
B-1 and
C-1
Districts
(continued)**

DISTRICTS BY LIMITING SUCH USES TO 4 DWELLING UNITS PER ACRE, TO ELIMINATE SECTION 115-77.1 LARGE SCALE USES, AND MAKE OTHER TECHNICAL CHANGES TO ARTICLE X, B-1 NEIGHBORHOOD BUSINESS DISTRICT AND ARTICLE XI, C-1 GENERAL COMMERCIAL DISTRICT”.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on September 11, 2003 at which time they deferred action. Mr. Lank, Director of Planning and Zoning, read a synopsis of the Commission’s Public Hearing, which was incorporated into the record of this Public Hearing.

Mr. Lank advised that written comments were received from the Delaware Office of State Planning Coordination; John Sergovic of Sergovic, Ellis & Shirey, P.A., Preston Dyer of Dyer, McCrea Ventures, LLC, and the Positive Growth Alliance. Copies of the written comments were distributed to Council.

Public comments were heard.

Mr. Dan Kramer stated that he believes the density should remain the same in the commercial zone; that land needs to be saved; that the Proposed Ordinance states that “The total gross building area of any building or group of buildings shall be less than seventy-five thousand square feet.” which affects the Proposed Ordinance relating to the C-2 Large Scale Commercial District.

Mr. Rich Collins of the Positive Growth Alliance submitted comments on how density affects open space in Sussex County. He stated that it needs to be made more clear that this only applies to newly zoned properties and he recommended amendments to the Proposed Ordinance referencing “newly zoned”.

Mr. Preston Dyer of Dyer McCrea Ventures, LLC stated that the suggestion that future or new rezoning requests for C-1 should be limited to 4 residential units per acre is an inappropriate answer and it confuses the issues of use with density; that density for multi-family residential units has been addressed throughout the Comprehensive Plan; that the goal of the 2002 Sussex County Comprehensive Plan is to direct growth with the provision of public infrastructure and services; that the Plan confirms that since central wastewater facilities exist or are planned, higher densities are appropriate, thus reducing the pressure for the conversion of farmland to residential use; that Council could make residential uses in C-1 Districts a conditional use (which is site plan specific) and not a permitted use as provided in the current Zoning Ordinance within the C-1 District; that if 4 units per acre is the maximum permitted in C-1, then this is in conflict with the density in HR and the expressed purposes of the Plan; that 4 units per acre contradicts the provisions of Livable Delaware which encourages affordable housing production and the desire to provide higher densities in areas where infrastructure and intense development are encouraged; and

**Public
Hearing
(continued)**

that the ordinance should be implemented without regard to the “strategy” of reducing the density to 4 units per acre in Commercial Districts.

A representative of the Homebuilders Association of Delaware was present and stated that when density is reduced, affordable housing is reduced and that the Association asks Council to consider the impact of the Proposed Ordinance.

It was noted that Kent County and New Castle County do not allow residential components in the commercial area.

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

**Amend
Agenda**

The Agenda item entitled “South Hampton Addition – Agreements” was tabled until the October 7th meeting.

**Land
Acquisition
Recommendation**

Mr. Izzo, County Engineer, discussed land acquisition proposals for the Inland Bays Regional Wastewater Facility, a lagoon treatment and spray irrigation system. Currently, approximately 200 acres is irrigated at the facility. The plant is permitted for 1.4 million gallons per day; approximately 650,000 gallons per day were received during the summer months. Mr. Izzo stated that there is capacity remaining; however when the Oak Orchard system comes on line in 2006, flows will increase to approximately 1 million gallons per day. Also, with the projected growth in the Long Neck District (the main district that the plant serves) and the Angola area, capacity will be exceeded beginning in approximately 2013. Mr. Izzo reported that, in an effort to keep up with the increasing demand in the area, the County decided to seek land to purchase for spray irrigation and Skip Valliant was hired to perform a land search. Mr. Izzo advised that several land purchases are being proposed, as follows:

RSC & Sons LLC (197.63 acres)
Richard S. Cordrey (48.37 acres)
Townsend, Inc. (524.25 acres)
J. G. Townsend (159.21 acres)

Mr. Izzo stated that the County has an existing spray irrigation farm lease with Townsends, Inc. and that Townsends is interested in selling the property to the County. (The parcel constitutes a portion of the 524.25 acres listed above.)

Mr. Izzo stated that approval of this proposal would allow the County to purchase 933 acres of land and would enable the County to be very close in providing capacity for the next 20 years, based on preliminary evaluations.

Funding sources for the purchase of the land will be: USDA Loan, USDA Grant, State Revolving Fund Loan, State Grant, County Sewer District Funds, and Realty Transfer Tax – County General Fund Grant.

(continued) Mr. Stickels reviewed the purchase prices of the properties, with the amount of all the purchases totaling \$11.7 million.

M 545 03
Approve
Purchase
of Lands

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the purchase of lands totaling 933 acres +/- as documented by the contracts of sale executed with the J.G. Townsend, Jr. & Co., Townsend's Inc., RSC & Sons, LLC and Richard S. Cordrey.

Motion Adopted: 5 Yea.

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

Ellendale
Sanitary
Sewer
District

Mr. Izzo, County Engineer, announced that Contract B for the Ellendale Sanitary Sewer District Project with Teal Construction has been closed out and homeowner's in Ellendale have been permitted to connect to the system. Mr. Izzo reported that he failed to ask Council in July to grant Substantial Completion for Contract B and for this reason, is making the request on this date.

M 546 03
Grant
Substantial
Completion/
Ellendale
Sanitary
Sewer
District/
Contract
B

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of Whitman, Requardt and Associates that Teal Construction, Inc. of Dover, Delaware be granted Substantial Completion effective June 20, 2003 for Sussex County Project No. 89-16, Contract B, Ellendale Sanitary Sewer District, and any held retainage be released.

Motion Adopted: 5 Yea.

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

Extension
Request/
C/U
No. 1407

Mr. Lank, Director of Planning and Zoning, read a letter into the record dated September 17, 2003 from Kenneth A. Simpler regarding Conditional Use No. 1360 filed on behalf of Raymond Michitti which was adopted by Ordinance (No. 1407) on October 17, 2000. In his letter, Mr. Simpler requests an eight-month extension for the conditional use. He noted that there have been two previous extensions granted by the Planning and Zoning Commission. He noted that the extension is necessary due to the delay in sewer completion and that they have been unable to begin the project because their lender will not finance the project until sewer is available.

It was noted that one of the conditions of approval for Conditional Use No. 1360 was "The development shall be served as part of the Cedar Neck Sanitary Sewer District."

**Extension
Request
(continued)**

Mr. Lank noted that the applicant has not submitted a site plan nor have they submitted any agency comments.

Mr. Lank and Mr. Griffin referred to the Sussex County Code which states that the Commission has the authority to grant up to two one-year time extensions and that the Commission shall not grant more than two (2) such one-year extensions.

Tim Willard, legal counsel for the applicant, stated that the Code does not prohibit the County Council from granting a time extension and therefore, he believes that they should be able to do so.

Mr. Griffin advised that he would like to research the matter. It was the consensus of Council to defer action and to place the matter on the October 7th Agenda for further discussion and possible action.

**Grant
Request**

Mr. Stickels submitted a grant request from First State Community Action Agency.

**M 547 03
Youth
Activity
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to First State Community Action Agency for Teen Conference 2003.

Motion Adopted: 5 Yea.

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

**M 548 03
Recess**

At 12:50 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess and go into Executive Session for the purpose of discussing land acquisition. Motion Adopted by Voice Vote.

**Executive
Session**

At 12:51 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing land acquisition.

Reconvene

At 12:55 p.m., Mr. Rogers called Council back into session.

**M 549 03
Recess**

At 12:56 p.m., a Motion was made by Mr. Jones, seconded by Mr. Phillips, to recess for ten minutes. Motion Adopted by Voice Vote.

Reconvene

At 1:10 p.m., Mr. Rogers called Council back into session.

**Public
Hearing
(C/Z
No. 1514)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.43 ACRES, MORE OR

**Public
Hearing
(C/Z
No. 1514)
(continued)**

LESS” (Change of Zone No. 1514) filed on behalf of Don Conaway.

The Planning and Zoning Commission held a Public Hearing on this application on September 11, 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 Steve Parsons, Attorney, and Don Conaway were present on behalf of the application. They stated that the application is for the development of multi-family units on the site; that they propose to limit the number of units to 16 townhouse designed condominium units; that the site has been operated as a restaurant for many years; that they propose to remove all the structures on the site; that traffic will be reduced; that the use itself is less intense; that the proposed use will be aesthetically more pleasing and that the owners are willing to put a covenant on the property limiting the use to townhouses or condominiums.

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

Mr. Griffin stated that he would like to review the proposed covenant prior to Council taking any action.

**M 550 03
Defer
Action on
C/Z
No. 1514**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Change of Zone No. 1514, filed on behalf of Don Conaway.

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/Z
No. 1515)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.61 ACRES, MORE OR LESS” (Change of Zone No. 1515) filed on behalf of Don Conaway.

The Planning and Zoning Commission held a Public Hearing on this application on September 11, 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 Steve Parsons, Attorney, and Don Conaway were present on behalf of Joseph Balsamo, the owner of the property. They stated that the application is similar to the application for Change of Zone No. 1514; that the application is for the development of multi-family units

**Public
Hearing
(C/Z
No. 1515)
(continued)**

on the site; that the applicant would like to build 30 townhouses on the site; that the site has been operated as a restaurant for many years; that they propose to remove all the structures on the site; that traffic will be reduced; that the use itself is less intense; that the proposed use will be aesthetically more pleasing and that the owners are willing to put a covenant on the property limiting the use to townhouses or condominiums.

There were no public comments and the public hearing was closed.

**M 551 03
Defer
Action on
C/Z
No. 1515**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Change of Zone No. 1515, filed on behalf of Don Conaway.

Motion Adopted: 5 Yea.

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

**Application
Withdrawn**

Mr. Lank, Director of Planning and Zoning, announced that that Change of Zone No. 1516, filed on behalf of East Bay Homes, LLC had been withdrawn.

**Public
Hearing
(C/Z
No. 1517)**

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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 16,227 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1517) filed on behalf of Michael and Mary Morton.

The Planning and Zoning Commission held a Public Hearing on this application on September 11, 2003 at which time they recommended that the application be approved. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary and the findings and recommendations of the Commission were admitted as part of the record of this Public Hearing.

The Council found that Mary Morton was present and spoke on behalf of the application. Mrs. Morton stated that the electric motor business has existed for over 50 years on the site; that many properties on Kings Highway have been rezoned to commercial; that the property has no residential value due to its location; that there are no plans to expand the business; and that any expansion would be very limited due to the size of the property and the required setbacks.

Mr. Michael Morton was present in support of the application.

There were no public comments and the public hearing was closed.

**M 552 03
Adopt
Ordinance
No. 1634
(C/Z
No. 1517)**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt Ordinance No. 1634 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 16,227 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1517) filed on behalf of Michael and Mary Morton.

Motion Adopted: 5 Yea.

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

**Proposed
Ordinance**

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL CONTRACTORS OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS" (Conditional Use No. 1532) filed on behalf of Triangle Electric Service Co. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6,000 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1533) filed on behalf of Kyung Cho-Miller. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO BODY SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 21.12 ACRES, MORE OR LESS" (Conditional Use No. 1534) filed on behalf of Kevin A. Davis. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO CONDITIONAL USES NO. 1370 AND NO. 1443 BY ADDING THE SALE OF MULCH, STONE, AND RELATED LANDSCAPE GOODS AND TO REMOVE THE WETLAND RESTRICTION TO BE LOCATED

**Proposed
Ordinance
(continued)**

ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 39.81 ACRES, MORE OR LESS” (Conditional Use No. 1535) filed on behalf of The Barn Yard. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 27.21 ACRES, MORE OR LESS” (Change of Zone No. 1536) filed on behalf of Sandy Landing, 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 A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 27,000 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1537) filed on behalf of Charlotte L. Wheatley. The Proposed Ordinance will be advertised for Public Hearing.

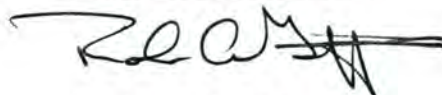
**Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1538) filed on behalf of Rebay, LLC. The Proposed Ordinance will be advertised for Public Hearing.

**M 553 03
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to adjourn at 1:50 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



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