



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 2, 2007

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 2, 2007 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney

M 579 07 Approve Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to amend the Agenda by deleting "Approval of Minutes", by deleting the Grant Requests from Mount Zion Church and Morning Star Publications, Inc., and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Corre- spondence

Mr. Griffin read the following correspondence:

CHAMBER OF COMMERCE FOR GREATER MILFORD, MILFORD, DELAWARE.

RE: Letter in appreciation of grant funding.

THE WOODLAND FERRY ASSOCIATION, SEAFORD, DELAWARE.

RE: Letter in appreciation of grant funding.

ARABIAN LIGHTS DANCE COMPANY, LAUREL, DELAWARE.

RE: Letter in appreciation of grant funding.

AMERICAN LEGION POST 8 BASEBALL TEAM, MILTON, DELAWARE.

	<p>RE: Letter in appreciation of grant funding.</p> <p>GEORGETOWN BOYS & GIRLS CLUB, GEORGETOWN, DELAWARE.</p> <p>RE: Letter in appreciation of grand funding.</p>
Corre- spondence (continued)	<p>CITY OF SEAFORD, DEPARTMENT OF PARKS AND RECREATION, SEAFORD, DELAWARE.</p> <p>RE: Letter in appreciation of grant funding.</p> <p>RONALD MCDONALD HOUSE OF DELAWARE, WILMINGTON, DELAWARE.</p> <p>RE: Letter in appreciation of grant funding.</p> <p>CITY OF SEAFORD, POLICE DEPARTMENT, SEAFORD, DELAWARE.</p> <p>RE: Letter in appreciation of grant funding.</p>
Employee of the Quarter	<p>Mr. Baker recognized Susan Wise as “Employee of the Quarter” for the Third Quarter of 2007. Susan has worked in the County’s Economic Development Office and the Airport Operations Office since 1993.</p>
M 580 07 Adopt Tribute/ Employee of the Quarter	<p>A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt the Tribute to Susan Wise for “Employee of the Quarter” for the Third Quarter of 2007.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Voice by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
Draft Ordinance Related to Forested and/or Landscaped Buffers	<p>Mr. Baker distributed and reviewed a Draft Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV AND VI OF THE CODE OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS, SITE PLANS AND BONDING REQUIREMENTS AND TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE III, TO ADD A PROVISION ALLOWING COUNCIL TO REQUIRE A FORESTED AND/OR LANDSCAPED BUFFER FOR CONDITIONAL USES AND RESIDENTIAL PLANNED COMMUNITIES OF SINGLE-FAMILY OR MULTI-FAMILY DWELLINGS”.</p> <p>Mr. Baker explained that this Draft Ordinance was previously discussed on September 18, 2007. He stated that, as per the discussion on that date, the Draft Ordinance has been revised to require a 30 foot forested buffer around all boundaries of a major residential subdivision.</p>
Introduction of Proposed	<p>Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLES I, III, IV AND VI OF THE CODE</p>

Ordinance	OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS, SITE PLANS AND BONDING REQUIREMENTS AND TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE III, TO ADD A PROVISION ALLOWING COUNCIL TO REQUIRE A FORESTED AND/OR LANDSCAPED
Introduction (continued)	BUFFER FOR CONDITIONAL USES AND RESIDENTIAL PLANNED COMMUNITIES OF SINGLE-FAMILY OR MULTI-FAMILY DWELLINGS”. The Proposed Ordinance will be advertised for Public Hearing.
Possible State Legislation Relating to Impact Fees, SDDs, and TIFs	<p>Mr. Baker presented a proposal for possible State legislation with respect to additional Impact Fees, Special Development District Financing, and Tax Increment Financing. On September 25th, the County Council held a Workshop on alternative options for infrastructure funding, including Special Development Districts, Tax Increment Financing, Impact Fees, and Transportation Districts. Mr. Baker reminded the Council that, as discussed, in order to use Special Development Districts, Tax Increment Financing Districts or Impact Fees, enabling legislation will be needed.</p> <p>Mr. Baker distributed a Draft Resolution prepared by the County’s Bond Counsel which would authorize the County to move forward with preparing enabling legislation that would give the County Council the power to create Special Development Districts and to engage in Special Development District Financing, to assess additional Impact Fees, to create Tax Increment Financing Districts and to engage in Tax Increment Financing.</p> <p>Mr. Griffin noted that the adoption of State legislation would only be the first step in the process; thereafter, the County would need to approve ordinances on each matter.</p>
M 581 07 Adopt R 026 07 Prepare State Legislation/ Impact Fees, SDDs, and TIFs	<p>A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Resolution No. R 026 07 entitled “RESOLUTION AUTHORIZING ADMINISTRATION TO MOVE FORWARD WITH PREPARING LEGISLATION WITH RESPECT TO ADDITIONAL IMPACT FEES, SPECIAL DEVELOPMENT DISTRICT FINANCING AND TAX INCREMENT FINANCING”.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Voice by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
Recommendation for State Legislation/ Overlay Districts	<p>Mr. Baker presented for the Council’s consideration, a recommendation for State Legislation to clarify and enhance the County’s ability to establish Overlay Zoning Districts. Mr. Baker distributed Proposed Legislation entitled “AN ACT TO AMEND TITLES 9 AND 22 RELATING TO LAND USE, REQUIRED NOTICE FOR COUNTY ZONING CHANGES, AND TO CONFIRM THE ABILITY OF LOCAL GOVERNMENTS TO</p>

CREATE OVERLAY DISTRICTS’’. This Act clarifies that local governments may use overlay zones as planning and land use regulation tools without violation of the uniformity requirements in the Delaware Code, and clarifies the definition of, and notice requirements for, zoning changes and rezonings.

Recommendation for State Legislation/ Overlay Districts (continued)

Mr. Baker advised that the proposal has been reviewed by Mr. Griffin and Lawrence Lank, Director of Planning and Zoning, and that, with Council’s approval, he and Mr. Godwin would work with the General Assembly to get the legislation approved.

Mr. Griffin explained that the proposal, if approved, would give the three counties the additional statutory authority to create overlay zones and districts.

It was noted that the Proposed Legislation was written by Scott Shannon, Attorney, and that it never got introduced during the last General Assembly session and it has not yet been sponsored.

Mr. Baker advised that this would be a matter of discussion at the meeting of the Delaware Association of Counties on October 11th.

Mr. Phillips requested that action be deferred for one week to allow more time for a review of the proposal. The matter will be placed on the October 9th Agenda.

Administrator’s Report

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

1. Airport Hangar Renovation Bids

On September 28, 2007, the County Engineering Department opened bids for renovations to the airport hangar to be used by Delaware Technical & Community College for the airframe mechanics training program. Nine bids were received. Attached is a listing of the bidders and the amounts of each bid.

As per the listing, Richard Y. Johnson & Son, Inc., was the low bidder for the project with a base bid plus Alternate A of \$720,318. This is above the engineer’s estimate of \$550,000. The County Engineering Department and the consulting engineers are reviewing the bids at this time and a recommendation will be forthcoming.

2. Beach Renourishment Project

The State of Delaware is in the process of renourishing beaches at Bethany and South Bethany Beach. Per Mr. Tony Pratt from the Department of Natural Resources and Environmental Control, the beach at Bethany and South Bethany will be extended approximately 100 feet to provide a dune with dune grass for protection, as well as a 250-foot beach in front of the new dune. Project work is now

underway at Bethany Beach. The project completion date is estimated to be by Memorial Day 2008.

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

3. Delaware 4-H Program Certificate of Appreciation

Enclosed is a copy of a Certificate of Appreciation presented to the Sussex County Council in recognition of the Council's generous support of Delaware's 4-H Youth.

4. Captain's Grant Public Meeting

On October 11, 2007, at 7:00 p.m., the County Engineering Department will be holding a public meeting regarding the proposed inclusion of the Captain's Grant Subdivision in the extension of the Oak Orchard Sanitary Sewer District. The seven o'clock meeting will occur at the Indian River Volunteer Fire Hall in Oak Orchard.

**Deposit
Account**

Mrs. Webb presented a proposal to open a new checking account for the Angola Neck Sanitary Sewer District.

**M 582 07
Adopt
R 025 07/
Deposit
Account
with
Citizens
Bank**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Resolution No. R 025 07 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE CITIZENS BANK BEARING THE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Motion Adopted: 5 Yeas.

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

**Masonry
Repairs
Project/
Adminis-
trative
Office
Building**

Julie Cooper, Project Engineer, presented a Balancing Change Order and request for Substantial Completion for the Masonry Repairs Project – Administrative Office Building Roof. Ms. Cooper reported that this phase of the project was for masonry repairs to the chimneys. Ms. Cooper reported that the original contract amount was for \$31,380.00; extra work required on copper chimney caps totaled \$1,166.75; the resulting total contract amount was \$32,546.75. Ms. Cooper stated that the masonry repairs were necessary prior to the entire roof replacement.

Mr. Dukes stated that the roof is only approximately eleven years old and that there should be a warranty on it. Ms. Cooper responded that, if there is a warranty, she has not been able to find it. Ms. Cooper stated that she

would investigate further.

**M 583 07
Project
Completion
M 583 07
Substantial
Completion
& Balancing
Change
Order/
Masonry
Repairs
Project/
Adminis-
trative
Building
(continued)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council grant Substantial Completion, effective September 11, 2007, to D & A Masonry Restoration, Inc. of Southampton, Pennsylvania for Sussex County Project No. 07-01, Masonry Repairs – Sussex County Administration Building Roof, and further, that Balancing Change Order No. 1 be approved in the amount of \$1,166.75, thereby increasing the contract amount from \$31,380.00 to \$32,546.75, and that final payment be made in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Bonds for
Oak
Orchard
SSD**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO AN ADDITIONAL \$1,203,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF THE OAK ORCHARD SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”.

Mrs. Webb stated that the County proposes to issue general obligation bonds in the maximum aggregate principal amount not to exceed \$1,203,000 to finance a portion of the construction of the Oak Orchard Sanitary Sewer District. The Bonds would be backed by the County’s full faith and credit. It is expected that the debt service will be paid from the revenues of the Oak Orchard Sanitary Sewer District. The term of the bonds will not exceed 40 years. A current rate of 4.5 percent has been obtained. It is anticipated that the bonds will be sold to Rural Development.

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

**M 584 07
Adopt
Ordinance
No. 1933**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1933 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO AN ADDITIONAL \$1,203,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF THE OAK ORCHARD SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”.

Motion Adopted: 5 Yeas.

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

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

**Old
Business
(C/U
No. 1705)**

The Council discussed Conditional Use No. 1705 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WAREHOUSING, MINI-STORAGE AND CONTRACTOR CONDOMINIUMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 74.04 ACRES, MORE OR LESS” (Conditional Use No. 1705) filed on behalf of The Commonwealth Group.

The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2007 at which time they deferred action; on July 18, 2007, the Commission recommended that the application be approved with 24 conditions.

Mr. Dukes advised that he and Mr. Jones met with Lawrence Lank, Director of Planning and Zoning, to review the recommended conditions for the purpose of trying to address the Council’s concerns and those of the neighboring property owners. Mr. Dukes stated that amendments were made to the Commission’s recommended conditions; in addition, several conditions were added. Mr. Lank reviewed the amended and new conditions for the Council’s consideration.

**M 585 07
Adopt
Ordinance
No. 1934
(C/U
No. 1705)**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1934 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WAREHOUSING, MINI-STORAGE AND CONTRACTOR CONDOMINIUMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 74.04 ACRES, MORE OR LESS” (Conditional Use No. 1705) filed on behalf of The Commonwealth Group, with the following conditions:

- 1. Due to the size of the project and the various proposed uses, the project is to be divided into at least 4 phases subject to approval by the Planning and Zoning Commission. For example, Phase I might consist of the proposed Warehouse #1, adjoining parking areas and entrance to the Sussex County Airport. Each phase shall be subject to the review and approval of the Planning and Zoning Commission.**
- 2. The Applicant will construct a minimum 50 foot landscaped buffer which could include mixed plantings of trees with a minimum height of 8-feet, except at the entrance as approved through DelDOT. The landscaped buffer will be required along the frontage of Truck Route 9 to screen the project from the nearby neighbors and Truck Route 9.**

**M 585 07
Adopt
Ordinance
No. 1934
(C/U
No. 1705)
(continued)**

The 50 foot landscaped buffer is to be installed before the issuance of the first building permit and shall be shown on the Final Site Plan. Trees should be staggered with a minimum of four (4) rows of trees. There shall also be a 30 foot landscaped buffer of trees with a minimum height of 8-feet along lands, now or formerly, of the Oaks of Georgetown, LLC, with trees staggered with a minimum of (2) rows of trees.

- 3. The project is to be served by public water and sewer.**
- 4. Stormwater management facilities shall be designed so as to discourage nuisance waterfowl and per FAA and the County Engineer's recommendations.**
- 5. The issue of jurisdictional wetlands needs to be determined, especially in the southwestern corner adjacent to the airport in the vicinity of proposed Warehouse #1 and its accompanying large parking lot.**
- 6. Any security lights shall only be installed on the buildings and shall be so screened that they do not shine on any neighboring properties or Truck Route 9. Any lighting installed on the property shall comply with FAA regulations.**
- 7. There shall be no outside storage of building materials or other construction materials, except for the materials required for the proposed buildings. There shall be no outside storage of boats or RVs.**
- 8. There shall be no filling or disturbance of any wetlands. A 50 foot minimum buffer is to be maintained from the edge of all wetlands. No structures or infrastructures are to be built within this buffer zone.**
- 9. The Traffic Impact Study is to be completed and submitted as part of the record before final approval of the project is requested.**
- 10. The proposed Contractor Building #4 shall be removed or relocated. Parking shall not back onto any entrance road/drive isle.**
- 11. There shall be no more than one lighted sign, not to exceed 32 square feet on each side.**
- 12. The interior street design shall be in accordance with or exceed Sussex County street and parking design requirements.**
- 13. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination. Council recommends to DelDOT that one (1) combined entrance is preferable to what DelDOT had previously approved. The entrance should be located so as to establish a minimal impact on neighboring properties.**

**M 585 07
Adopt
Ordinance
No. 1934
(C/U
No. 1705)
(continued)**

- 14. For safer vehicular travel, DelDOT shall require that improvements be made to the intersection of Springfield Road and Truck Route 9 due to the potential impact on local traffic prior to the occupancy of the first building.**
- 15. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. The project shall utilize Best Management Practices to construct and maintain these fixtures.**
- 16. The Applicant shall submit as part of the site plan review, a landscape plan showing the proposed buffer including the proposed landscape design.**
- 17. The developer shall preserve as much of the forest as possible to minimize the impact on the area. The 17.5 acres of forest preservation proposed by the developer shall be shown on the Final Site Plan and placed in permanent conservation easement along with the wetlands.**
- 18. The developer shall furnish a copy of the Rare and Threatened or Endangered Species study and report conducted by JCM Environmental to the Natural Heritage and Endangered Species Program and to further cooperate with DNREC as it pertains to Rare and Threatened or Endangered Species.**
- 19. Street names and addressing shall be approved by the Sussex County Mapping and Addressing Department.**
- 20. No site preparation, site disturbance, site excavation 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.**
- 21. No more than 4 warehouses totaling 316,850 square feet, and 19 contractor condominiums totaling 170,000 square feet, shall be constructed on the site. Any change in the type or square footage of the buildings shall be subject to the review and approval of the Planning and Zoning Commission.**
- 22. The location of the runway protection zone established by Sussex County shall be shown on the Final Site Plan.**
- 23. The Applicant shall execute an airport nuisance and non-suit covenant in favor of Sussex County.**
- 24. The Final Site Plan including the above stipulations shall be subject to the review and approval of the Planning and Zoning Commission.**
- 25. Any improvements or upgrades, as determined by the County**

Engineering Department, of the extension to Baltimore Avenue into the Commonwealth Group property will be the responsibility of and at the soul cost of the Applicant and shall be completed prior to the issuance of a Certificate of Occupancy for Warehouse #1.

**M 585 07
Adopt
Ordinance
No. 1934
(C/U
No. 1705)
(continued)**

- 26. Warehouse #1 will have access to Baltimore Avenue only. A barrier or gate shall be installed to prevent access for all buildings except Warehouse #1. Access for all other buildings will be through Park Avenue.**
- 27. Any amendment to these traffic conditions shall be subject to the approval of the Planning and Zoning Commission.**
- 28. If the Wilson, Rogers, Adams, or Moses families request it and agree to it, the Applicant shall install landscaping, not to exceed 30 feet in width, along their properties' rights-of-ways on Park Avenue.**
- 28. The Applicant and/or Owners Association shall be required to provide perpetual maintenance of all landscaped buffers installed on the Applicant's property.**

Motion Adopted: 5 Years.

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

Requests

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

**M 586 07
Youth
Activity
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$300.00 (\$100.00 each from Mr. Jones', Mr. Phillips' and Mr. Dukes' Youth Activity Grant Accounts) to the Delaware Storm 16U Baseball Team for expenses.

Motion Adopted: 5 Years.

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

**M 587 07
Community
Investment
Grant**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give the following to Dry Dock Inc. - \$5,000.00 from Mr. Rogers' Community Investment Grant Account for building improvements and \$250.00 from Mr. Rogers' Councilmanic Grant Account for the Golf Benefit.

Motion Adopted: 5 Years.

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

Mr. Dukes, Yea

M 588 07 Grant **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$100.00 from Mr. Jones' Councilmanic Grant Account to the Woodbridge High School for the Football Team.**

M 588 07 Councilmanic Grant (continued) **Motion Adopted: 5 Yeas.**

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

M 589 07 Youth Activity Grant **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Jones' and Mr. Rogers' Youth Activity Grant Accounts) to Milford Pop Warner for equipment and events.**

Motion Adopted: 5 Yeas.

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

Additional Business **Under Additional Business, Dan Kramer questioned why the Council continues to give grant funding to the same organizations, year after year.**

M 590 07 Recess **At 11:50 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **Mr. Rogers called the Council back into session at 1:36 p.m.**

Public Hearing (C/U No. 1698) **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 PROFESSIONAL OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 14,999 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1698) filed on behalf of Jeffrey and Terrie Portmann.**

The Planning and Zoning Commission held a Public Hearing on this application on September 13, 2007 at which time the Commission recommended approval with four conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated September 13, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the Council's record.

**Public
Hearing
(C/U
No. 1698)
(continued)**

Jeffrey Portmann was present and he stated that he is a Certified Public Accountant; that he operates a part-time tax practice from his residence on the site; that he is currently operating as a home occupation with no employees; that he proposes to hire one employee to do office work; that he converted his garage into three offices and created a parking lot for six vehicles in 1998; that he presently works full-time elsewhere and works part-time at home by appointment on nights and weekends only; that business hours would be from 8:00 a.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays; that he already has a sign on the site; and that both neighbors are operating businesses with conditional use approvals.

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

**M 591 07
Adopt
Ordinance
No. 1935
(C/U
No. 1698)**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Ordinance No. 1935 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 14,999 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1698) filed on behalf of Jeffrey and Terrie Portmann, with the following conditions:

1. There will only be one unlighted sign on the premises that shall not exceed 32 square feet on each side.
2. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or towards Savannah Road.
3. The hours of operation for the business on this site shall be limited to 8:00 a.m. to 8:00 p.m., Monday through Friday, and on Saturday from 8:00 a.m. to 5:00 p.m.
4. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1699)**

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 GO-KART TRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY,

CONTAINING 3.24 ACRES, MORE OR LESS” (Conditional Use No. 1699) filed on behalf of Harry H. Isaacs, III.

**Public
Hearing
(C/U
No. 1699)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on September 13, 2007 at which time the Commission recommended approval with four conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated September 13, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

Harry H. Isaacs, III was present with Zack Crouch of Davis, Bowen & Friedel. They stated that the go-kart track has existed for approximately five years; that it originally started out as track for recreation for family and friends only; that currently, 60 to 80 families come to participate; that the family home is on Reynolds Pond Road in front of the track; that the track is lighted within a wooded area behind the home; that the age of the racers runs from 5 years to 50 years; that presently, everyone parks within the trees near the track; that they propose to remove two large buildings on the site by March 2008 to allow for the creation of a parking lot; that they would like to be able to operate the track on one evening a weekend with their choice of either Friday, Saturday or Sunday; that no racing would occur after Midnight; that normally, the racing is over by 10:00 p.m.; that there is an existing entrance; that the only restrooms on the site will be porta-toilets; that they do not charge a fee and that they run the operation on donations only; that they run a safe operation that provides a recreation to the community; and that the land will never be sold because is it is agriculture preservation.

Mr. Isaacs stated that he would like the hours of operation to be from 12:00 Noon and 12:00 Midnight due to daylight savings time as well as weather conditions.

Susan Davis and Yvonne White spoke in support of the application. They stated that Mr. Isaacs has created a fun and safe activity for children; that it is a place for family, friends, and neighbors to come together; and that the Applicant teaches the children the importance of safety and respecting authority.

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

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Ordinance No. 1936 entitled “AN ORDINANCE TO GRANT A

**Adopt
Ordinance
No. 1936**

CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GO-KART TRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.24 ACRES, MORE OR LESS” (Conditional Use No. 1699) filed on behalf of Harry H. Isaacs, III, with the following conditions:

**M 592 07
Adopt
Ordinance
No. 1936
(C/U
No. 1699)
(continued)**

- 1. The use shall be limited to go-kart racing only.**
- 2. The hours of operation shall be one day per weekend, in other words, only one Friday, Saturday or Sunday. On the day of operation, the hours of operation shall be between 12:00 Noon and 12:00 Midnight.**
- 3. All lighting shall be directed so that it does not shine onto neighboring properties or State Route 30.**
- 4. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

Mr. Rogers left the meeting at this time.

**Public
Hearing
(C/U
No. 1752)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (16 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.1 ACRES, MORE OR LESS” (Conditional Use No. 1752) filed on behalf of Michael Orndorff.

The Planning and Zoning Commission held a Public Hearing on this application on September 13, 2007 at which time the Commission deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated September 13, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

Mr. Lank reported that an additional letter was received from the County Engineering Department, dated September 21, 2007, stating that they

**Public
Hearing
(C/U
No. 1752)
(continued)**

revisited their comments on Conditional Use No. 1752 and that on further review of the parcels and the request, they have determined that they would allow the connection of 16 EDUs; in addition, they confirmed that the owner paid for an additional sewer connection for Parcel 80.06 at the time of the original construction on Sandy Cove Road which will allow the project to be served from either Cedar Neck Road and/or Sandy Cove Road.

Mr. Lank distributed Exhibit Books which were also provided to the Planning and Zoning Commission.

Mr. and Mrs. Michael Orndorff were present with Bruce Rogers, Attorney, and Gary Cuppels of Environmental Consultants International. They stated that they propose to develop a 16 unit townhome community (Bethany Cedars Townhouse Community on 4.10 acres (4 units per acre); that the units will be condominium designed townhouses; that the Applicant lives in the area of the proposed development and will not be an absentee landlord; that approximately 2.3 acres of open space will be provided; that the project is a fill-in type of project surrounded by existing developments and parcels; that Sussex County will provide public sewer; that a minimal number of existing trees (approximately less than 30 percent) will need to be removed and the natural slope of the site will be utilized for stormwater conveyance to a proposed pond; that mitigation measures to replace trees will be made by landscaping the site; that a wet pond is proposed; that a gazebo and a tot-lot will be provided during the final phase; that there are no jurisdictional wetlands on the site; that the units will contain garages; that they propose 48 parking spaces; that the proposal is compatible with the area since it is a general residential zone; that the perimeter of the site will be buffered with existing trees or additional trees; and that as per DelDOT, site access will be off of Sandy Cove Road.

Mr. Griffin questioned the Applicant regarding the lack of information following Appendix J (Declaration of Covenants, Conditions & Restrictions) in the Exhibit Book. Mr. Cuppels responded that Appendix J was intentionally left blank; that they had prepared proposed findings of fact and conditions; however, they did not include them in the Book because they wanted to tailor them based upon any restrictions imposed by the County.

Clarence Collins of Sandy Cove Road questioned if there would be a wet or dry pond (Mr. Griffin responded that “apparently it was going to be a wet pond”); that he just found out that part of one of his properties is now in a flood plain and another is half in a flood plain; that when he bought the properties they were not in a flood plain; that he is concerned about lighting on the new project; that the road is very narrow; and that there are no bike paths.

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

**M 593 07
Defer
Action
M 593 07
Defer
Action
on C/U
No. 1752
(continued)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (16 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.1 ACRES, MORE OR LESS” (Conditional Use No. 1752) filed on behalf of Michael Orndorff.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing
(C/U
No. 1761)**

A Public Hearing was held on the Proposed Ordinance “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A PUBLIC UTILITY FOR A REGIONAL PROPANE STORAGE AND DISTRIBUTION FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.529 ACRES, MORE OR LESS” (Conditional Use No. 1761) filed on behalf of Sharp Energy, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on September 13, 2007 at which time the Commission recommended that the application be approved with three conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated September 13, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

Mr. Lank distributed an Exhibit Book that was previously provided by the Applicant.

Charles Russell was present with Dennis Schrader, Attorney, on behalf of the application. They stated that the application is for the regionalization of an existing propane storage distribution and pumping facility that is currently located within The Peninsula subdivision; that the facility provides underground piping to The Peninsula; that the facility already exists and is also proposed to serve the Peninsula Lakes project; that capacity is available to serve other users within one mile of the facility; that they have two 30,000 gallon capacity tanks; that they are normally filled to

80 percent; that propane is brought to the site by tractor trailer; and that there are no immediate plans for any additional construction.

**Public
Hearing
(continued)**

Mr. Schrader stated that a Supplemental Exhibit Book was also provided for the record which contains all of the applicable regulations that go with this type of facility.

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

**M 594 07
Adopt
Ordinance
No. 1937
(C/U
No. 1761)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1937 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A PUBLIC UTILITY FOR A REGIONAL PROPANE STORAGE AND DISTRIBUTION FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.529 ACRES, MORE OR LESS” (Conditional Use No. 1761) filed on behalf of Sharp Energy, Inc., with the following conditions:

- 1. The Applicant shall cooperate with officials of First Responder Fire and EMS persons to apprise them of risk management and fire suppression techniques.**
- 2. The facility shall be operated and maintained in accordance with the requirements of the State Fire Marshal and any other Federal, State, or local government agencies with jurisdiction over the use of the site.**
- 3. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 595 07
Adjourn**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to adjourn at 2:54 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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