

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 15, 2002

Call to Order The regular meeting of the Sussex County Council was held Tuesday, October 15, 2002, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 621 02 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve
Approve the Agenda, as distributed.
Agenda

Motion Adopted: 4 Yea, 1 Absent.

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

M 622 02 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the
Approve minutes of October 8, 2002, as distributed.
Minutes

Motion Adopted: 4 Yea, 1 Absent.

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

M 623 02 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt the
Adopt Proclamation entitled "PROCLAIMING OCTOBER 11, 12, & 13, 2002 AS
Procla- "LIONS VISION DAYS" IN SUSSEX COUNTY".
mation

Motion Adopted: 5 Yea.

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

M 624 02 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to reappoint
Appoint- Arthur Marvel to the Building Code Appeal Board for a term of four years.
ment

**M 624 02
Appointment
(continued)**

Motion Adopted: 5 Yea.

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

**Sussex
Conser-
vation
District
Grant**

Mr. Vanderwende, Chairman, Sussex Conservation District, and Ms. Absher, District Coordinator, Sussex Conservation District, were in attendance to accept a grant from Council in the amount of \$75,000. Mr. Vanderwende reported that these funds will be matched with State funds and land owners' contributions to maintain the County's drainage ways; to develop drainage and flood control systems; and to develop alternative drainage designs. Mr. Vanderwende expressed his appreciation for Council's continued support. Mr. Stickels noted that in addition to the \$75,000.00, the Council also provides \$48,547.00 during the year, for a total annual contribution to the Sussex Conservation District in the amount of \$123,547.00.

**Captiation
Tax
Funding
for
Local
Libraries**

Mr. Stickels distributed a draft ordinance authorizing the use of revenues from the County's capitation tax for local libraries. Mr. Cole requested that this draft ordinance be prepared and placed on the Agenda for discussion purposes.

Questions were raised by Mr. Phillips regarding the policy of drafting ordinances. Mr. Phillips stated that his understanding was that, prior to staff drafting an ordinance, the matter would be discussed by the entire Council.

Mr. Stickels stated that, informally, all Councilmembers were made aware of this agenda item.

Mr. Stickels stated that the County's current policy is that any Councilmember can request staff to draft an ordinance for discussion purposes.

Mr. Stickels reviewed the draft ordinance to allocate the annual capitation tax to the Department of Libraries. The draft ordinance includes the language that the Sussex County Department of Libraries is in need of a regular stream of funds for its operations; that it has been determined that the annual capitation tax can be allocated to the eleven independent libraries with a negative impact on County services; and that the Ordinance would take effect for Budget Year 2003.

Mr. Baker stated that the estimated amount of capitation tax funding for next year is approximately \$200,000. Mr. Stickels advised that the \$3.00 tax is charged to every full-time resident of the County over the age of 21. Mr. Baker noted that the tax is difficult to collect because the County has problems tracing people. Mr. Stickels noted that it is not worth it to take court action against people that don't pay the \$3.00 tax. Mr. Baker stated

**Capitation
Tax
Funding
for Local
Libraries
(continued)**

that approximately 75 percent of those who are assessed actually pay the tax. He noted that the County cannot find addresses for many residents.

Mr. Dukes expressed his opinion that he does not think the additional funding is necessary; that the County is very fair in providing funding to the libraries; that they already have a very strong stream of funds; that since 1995, the County's mobile home placement tax has been used to fund libraries; that over \$2 million has been collected this year for the libraries; that he has not seen a "needs" list from the libraries; that he fears that once the County earmarks the capitation tax for libraries, Council will never vote to rescind it; and that right now, the County can afford it, but there will come a time when the "economic bubble" will break, and when it does the County will be looking for ways to meet its own budget.

Mr. Dukes distributed a printout of what the libraries are receiving. The printout shows that the percentage increase in funding received by the libraries since 1995 is 87.25%. Mr. Dukes stated that the growth in the County has not been anywhere near 87 percent; so the County has been giving more to the libraries than the assessment rate increase.

Mr. Cole stated that traffic in the libraries has become phenomenal; that libraries have been under-funded for years; that targeting the capitation tax funding to libraries would be a "catch-up thing"; that with the growing population, there are growing needs and services; that libraries have become a cultural/social center; that the libraries need a steady source of funding; that targeting capitation tax for the libraries is a form of funding that is based on population, which is better than marketplace-generated income since population doesn't fluctuate with the economy.

Mr. Stickels responded to questions and stated that, if the Draft Ordinance is adopted, the County would provide funding in the amount of taxes collected, not the amount budgeted.

Mr. Rogers stated that the Draft Ordinance is premature and that he would like for Councilmembers to consider the information presented by Mr. Cole and Mr. Dukes.

Mr. Dennis Forney and Mrs. Til Purnell spoke in favor of the draft ordinance. Mr. Dan Kramer questioned why the County has a difficult time collecting capitation taxes.

Action was deferred.

**Road
Closure
Request/
Milford
School**

Mr. Stickels advised Council that a request has been received from the Milford School District for the vacation and abandonment of a portion of a platted but unconstructed right-of-way of Fourth Street in the unincorporated area of Lincoln. It was the consensus of Council that there was no objection to this action as long as no properties are landlocked.

**Administrator's
Report**

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

1. State Police Agreement

On Tuesday, October 22, 2002, the Sussex County Council will present a check in the amount of \$167,076 to the Delaware State Police. This funding will be used to purchase seven vehicles and supporting equipment. With the purchase of these vehicles, the County Council has provided assistance in purchasing 26 vehicles for the State Police since 1994. Purchase of the vehicles is part of our agreement of July 1, 2002, to also increase manpower in Sussex County.

Currently, the County Council is paying a portion of the salary for 16 additional State Policemen. Over the next five years, this total will grow to 32.

**Introduction
of a
Proposed
Ordinance
Relating
to Bond
Refinancing/
Refunding**

Mr. Baker discussed a draft ordinance authorizing the refunding of the remaining amounts of bonds issued in 1993. This ordinance would authorize the County to refinance or refund those bonds, which total \$31,245,000. The current interest rate being paid on these bonds is 5.6 percent and 5.7 percent. It is being proposed that the bonds be refinanced at a lower, tax-exempt, interest rate. Mr. Baker advised that, by law, the County cannot issue refunding bonds until January, 2003. The ordinance will also give the County authority to issue new debt to pay off the old bonds and issue new bonds to replace them. The ordinance will also give the County the authority to issue a different type of financing (forward purchase agreement or swap) which will enable the County to lock in the current interest rate. Mr. Baker advised that any savings resulting from this refinancing would primarily benefit the sewer districts; the savings could be used for other capital projects for certain districts or to reduce future debt service payments. The savings would offset any potential increases in the future. The ordinance will also allow the County to refinance some sewer debt which was issued through Rural Development.

**Proposed
Ordinance**

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE PURPOSE OF REFUNDING CERTAIN EXISTING DEBT OF THE COUNTY, FUNDING CERTAIN CAPITAL IMPROVEMENTS AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH". The Proposed Ordinance will be advertised for Public Hearing on November 12, 2002.

**Long Neck
SSD/
Expansion
Request**

Mr. Archut, Assistant County Engineer, discussed a request for sewer service from Greg Biener. Mr. Biener's lands are adjacent to the Long Neck Sanitary Sewer District. Mr. Archut noted that there have been two previous annexations on the same side of the road as Mr. Biener's lands.

**M 625 02
Authorize
Preparation
and
Posting of
Notices/
Long
Neck SSD
Extension**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Long Neck Sanitary Sewer District boundary to include lands owned by Greg Biener.

Motion Adopted: 5 Yea.

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

**M 626 02
Council-
manic
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$400.00, \$200.00 each from Mr. Dukes' and Mr. Phillips' Councilmanic Accounts, to the Laurel Lions Club for the Lions Low Vision and Research Center at the John Hopkins Wilmer Eye Institute.

Motion Adopted: 5 Yea.

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

**M 627 02
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$300.00 from Mr. Phillips' Councilmanic Account to the Selbyville Lions Club for community projects.

Motion Adopted: 5 Yea.

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

**M 628 02
Council-
manic
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$100.00 from Mr. Jones' Councilmanic Account to Delaware Tech Baseball/Softball for the sponsorship of Matt Murray in the Baseball/Softball Marathon.

Motion Adopted: 5 Yea.

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

**M 629 02
Youth
Activity
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$250.00, \$50.00 from each Youth Activity Account, to the Coasters, Inc. Cheerleading for uniforms, equipment and travel expenses.

Motion Adopted: 5 Yea.

**M 629 02
(continued)**

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

**Proposed
Ordinance**

Mr. Phillips introduced the Proposed Ordinance 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 (WATER) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.10 ACRES, MORE OR LESS” (Conditional Use No. 1477) filed on behalf of Carl M. Freeman Communities, LLC. The Proposed Ordinance will be advertised for Public Hearing.

**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 CONTRACTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 3.08 ACRES, MORE OR LESS” (Conditional Use No. 1478) filed on behalf of Eric and Laura James. 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.387 ACRES, MORE OR LESS” (Change of Zone No. 1485) filed on behalf of Pierce Hardy Limited Partnership. 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.83 ACRES, MORE OR LESS” (Change of Zone No. 1486) filed on behalf of David Ritter. The Proposed Ordinance will be advertised for Public Hearing.

**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 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 138.78

Proposed Ordinance (continued) **ACRES, MORE OR LESS” (Change of Zone No. 1487) filed on behalf of Caldera Properties. 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 – RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 38.63 ACRES, MORE OR LESS” (Change of Zone No. 1488) filed on behalf of Penny Lane Development, 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-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25.09 ACRES, MORE OR LESS” (Change of Zone No. 1489) filed on behalf of East Bay Homes, LLC. The Proposed Ordinance will be advertised for Public Hearing.**

M 630 02 Recess **At 11:18 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **Mr. Jones called Council back into session at 1:40 p.m.**

Public Hearing C/U No. 1465 **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 GO-KARTS, PARTS AND REPAIRS, AND BUILDING MATERIAL STORAGE FOR A CONTRACTOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 39,610 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1465) filed on behalf of Charles H. Hayes, Jr.**

The Planning and Zoning Commission held a Public Hearing on this application on September 26, 2002 at which time they deferred action. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Hayes was present on behalf of his application and stated that he works on go-karts as a hobby; that he has recently started selling parts at the track in Delmar; that he rebuilds motors for go-carts use only; that it looks like his hobby is becoming a business; that the existing building was for his construction business; that the hours he proposes is 10:00 a.m. to 10:00 p.m.

**Public
Hearing
C/U
1465
(continued)**

Monday through Friday and 10:00 a.m. to 2:00 p.m. on Saturdays; that there will be no Sunday hours; that there will be minimal traffic; that he and his son are the only employees; and that there is no noise associated with the business as all work is done in the building.

Mr. Stickels referred to the letter from DelDOT stating that they are concerned that the proposed conditional use would add more traffic to an area with existing poor levels of service (E) during the summer peak hours. Mr. Stickels reminded Council that in accordance with the Memorandum of Understanding between the County and DelDOT, if the Council rezones property where levels of service E or F exist, Council must have special reasons for approving the application and these reasons are to be specified in the Findings of Fact.

There were no public comments and the Public Hearing was closed. Action was deferred to await a recommendation of the Planning and Zoning Commission.

**Public
Hearing
C/Z
No. 1480**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 24,366.12 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1480) filed on behalf of Randy W. and Kathleen Radish.

The Planning and Zoning Commission held a Public Hearing on this application on September 26, 2002 at which time they recommended that the application be approved since the site is adjacent to a commercial use to the east and since the site is within the Town Center of Laurel according to the 1997 Sussex County Comprehensive Plan. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Radish was present on behalf of his application and stated that the property has a small warehouse building on it that is used for storage of building materials; that the yard is used for outside storage of building materials; that occasionally a fork lift is on site; that he proposes to add an office building on the property in the future; and that traffic to the site is minimal.

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

**M 631 02
Adopt
Ordinance
No. 1565**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1565 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

**M 631 02
(continued)**

LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 24,366.12 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1480) filed on behalf of Randy W. and Kathleen Radish.

Motion Adopted: 5 Yea.

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

**Findings
of Fact**

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

- 1. The applicant established by substantial evidence that the change of zone is consistent with the character and trend of development in the immediate area, is consistent with the purposes and goals of the Comprehensive Land Use Plan, and will have no adverse impact of any sort.**
- 2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.**

**Public
Hearing
C/Z
No. 1479**

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 MR/RPC MEDIUM DENSITY RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 148.13 ACRES, MORE OR LESS” (Change of Zone No. 1479) filed on behalf of Pepper Creek Joint Venture.

The Planning and Zoning Commission held a Public Hearing on this application on September 26, 2002 at which time they deferred action. On October 10, 2002 the Commission discussed the application and recommended that the application be approved, with conditions. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Abbott, Assistant Director of Planning and Zoning, reviewed additional comments received since the Public Hearing held on September 26, 2002. A letter was received from the Sussex County Engineering Department, Planning and Permits Division, on September 27, 2002 which stated that the proposed development is within an area where the Department recommends serving the project with centralized treatment facilities which would include nutrient removal; and they recommended that the proposed collection system be constructed in accordance with Sussex County Ordinance No. 38. A letter was also received from Scott Carey, a nearby property owner, in support of the application.

**Public
Hearing
C/Z
No. 1479
(continued)**

Mr. James Fuqua, Attorney, was present and stated that he represents the applicant, Pepper Creek Joint Venture. He stated that the principals of Pepper Creek Joint Venture are Bake Timmons and Steven Parsons. He stated that he has submitted for the record a number of exhibits: a feasibility study for the community wastewater treatment plant, a design of the plant, a Phase One Environmental Assessment Report, a letter from Tidewater Utilities, a letter from DNREC, a letter from DelDOT, a letter from Marzulla & Marzulla, regarding a Habitat Conservation Plan, a Greenbelt Concept Layout, and Proposed Conditions.

Mr. Fuqua stated that consultants who worked on the plan were present to answer any questions from Council. Mr. Fuqua's presentation contained the same information presented to the Planning and Zoning Commission and is incorporated into the record of their Public Hearing.

Mr. Stickels referred to the fifteen conditions proposed by the Planning and Zoning Commission and presented additional conditions for Council's consideration:

- Road naming and addressing of the RPC shall be approved by the County's Addressing Department.
- The thinning and removal of tree lines within 50 feet of Pepper Creek shall be approved by the Planning and Zoning Commission.
- No individual boat docks or boat launching facilities shall be permitted.
- Wastewater facilities shall be reviewed by the Department of Natural Resources prior to the construction of each phase.

Mr. Fuqua stated that they have no objection to the proposed conditions with the exception of "No individual boat docks or boat launching facilities shall be permitted."

Public comments were heard. There were no public comments in support of the application. Mr. Brandon Donaway spoke in opposition to the application. Mr. Donaway expressed concerns about the number of lots proposed; the increase in the amount of traffic on Piney Neck Road; the congestion that it will produce; and the improvements that need to be made to Road 336. There were no further public comments and the Public Hearing was closed. Action was deferred for further study.

Recess

At 3:00 p.m., Mr. Jones declared a short recess.

Reconvene

At 3:05 p.m., Mr. Jones called Council back into session.

**Workshop/
Land Use
Plan
Update**

A workshop was held on the County's proposed land use plan update.

Mr. Shafer of Shafer Consulting, the County's consultant on the Land Use Plan Update, presented for discussion the following issues:

1. Decision on the Buffer Zones.

**Workshop
(continued)**

It has been recommended that buffers around tidal wetlands be increased from 50 feet to 100 feet and that buffers around non-tidal wetlands be 25 feet. Council did not agree to include these buffer specifications in the draft Land Use Plan Update.

Mr. Shafer reported that the Division of Soil and Water Conservation is developing site-specific riparian buffer designs that specify widths, vegetation types and distribution, and land conditions. Mr. Shafer stated that, until such time as the information becomes available, he recommends that the current requirement for a 50-foot buffer remain in effect.

Mr. Cole expressed concern with the State mandating what buffer widths should be and urged Council to specify buffer widths in the draft Land Use Plan Update

It was the consensus of Council to include language in the Land Use Plan Update “to evaluate increasing the existing 50 foot buffer zone around tidal wetlands to 100 feet to determine whether any changes are necessary to implement the pollution control strategy; to evaluate the scientific and environmental benefits for establishing a 25 foot buffer zone around non-tidal wetlands; and to include a definition of a buffer. The supporting ordinance could exempt farmland or stipulate the amount of acreage.

2. Decision on the Open Space Language.

In the Community Design Element of the draft Land Use Plan Update, the following sentence was included: “The provision of open space will also enhance the value of the community.”

Mr. Shafer has recommended that the sentence be replaced with the following: “Provisions for clustering into smaller lot sizes will provide a greater opportunity for open space. The recommended minimum requirements are as follows: AR-1 - 20%; MR - 20%; GR - 20%; RPC - 20%; HR-1 - 30%; HR-2 - 30%; and MRP - 25%.”

Mr. Shafer also recommended that “non-tidal wetlands” be deleted from the definition of Open Space and that “golf courses” be included in the definition of Open Space. Mr. Shafer also suggested that the following sentence be included “A portion of the non-tidal wetlands may be counted as open space if sufficient recreational and buffer areas are provided.”

Mr. Shafer stated that if an area is going to be permanent open space, then there has to be some kind of conservation easement. Mr. Shafer will check with Mr. Bayard as to whether it would be legal for the Plan to contain this language.

Workshop
(continued)

It was the consensus of Council to agree with Mr. Shafer's recommendation.

3. Approval of the Map

It has been recommended by various groups and agencies to include other areas in the Environmentally Sensitive Development Area.

It was the consensus of Council to include all of the Development Area (yellow area) around Route One into the Environmentally Sensitive Developing Area (cross-hatched area). (Mr. Phillips was opposed.)

It was the consensus of Council to change the map to show compliance with the Land Use Plans of the Town of Greenwood and the Town of Milton.

4. Approval of the "Low Density" Language

Currently, for on-site wastewater systems, the requirement is a three-quarter acre minimum lot size (tidal and non-tidal wetlands are generally not included in lots). For central systems, the requirement is a 20,000 square foot minimum lot size (tidal and non-tidal wetlands are generally not included in the lots). RPC zoning is allowed and non-tidal wetlands are included in density calculations.

Mr. Shafer presented the following options for on-site wastewater systems:

- Leave as is at three-quarter minimum lot size.
- Deduct area of tidal and non-tidal wetlands and roads. Calculate number of units allowed using net acreage and three-quarter lot size. Allow clustering to one-half acre lots.
- Deduct area of tidal wetlands and roads. Calculate number of units allowed using net acreage and three-quarter lot size. Allow clustering to one-half acre lots.
- Allow one lot per net acre after deducting tidal and non-tidal wetlands and allow clustering to one-half acre lots.

Mr. Shafer presented the following options for central wastewater systems:

- Leave as is at 20,000 square feet with RPC zoning allowed.
- Eliminate RPC zoning.

**Workshop
(continued)**

- Allow one lot per net acre after deducting tidal and non-tidal wetlands.

It was the consensus of Council to include the recommended language for the “Guidelines for Density”, as follows: “For lots using an on-site disposal system, the minimum lot size for single-family detached homes and manufactured housing is currently three-quarters of an acre. Upon the adoption of an amendment to the zoning ordinance, the developer will have the option of clustering the homes using a minimum one-half acre lot size where soil conditions are suitable as determined by DNREC. If the cluster option is chosen, the number of lots allowed will not exceed the number permitted under the current ordinance. For lots using a central wastewater disposal system, the minimum lot size is 20,000 square feet.”

Mr. Shafer reviewed the recommended language for “Purpose”, as follows: “After the words “agricultural operations and activities”, insert the following: “Approval of any rezoning or subdivision in this area is subject to the consideration of the criteria contained in Ordinance 1152 as shown in the Subdivision Regulations.” Delete the next sentence and substitute “Where approved, low density single-family residential housing is appropriate, together with....”

No consensus was reached on including the recommended language for “Purpose”. It will be further discussed at the October 22nd workshop.

5. Approval of the Low/Medium (ESDA) Language

Mr. Shafer discussed the existing Central Wastewater Requirements:

- 20,000 square feet minimum lot size in an AR-1 District. MR, GR and HR zoning may be allowed.
- RPC zoning is allowed and non-tidal wetlands are included in density calculations.

Mr. Shafer presented the following options:

- Leave as is.
- Deduct area of tidal and non-tidal wetlands and roads and allow two lots per acre.
- Deduct area of tidal wetlands and roads and allow two lots per net acre.
- Deduct area of tidal and non-tidal wetlands and allow two lots per net acre.

**Workshop
(continued)**

Mr. Shafer presented the following proposed changes in the language in the draft Land Use Plan Update:

Page 10 after the first paragraph, insert “Location” Since utilities are generally installed in the roadways forming the boundary of the area, the Environmentally Sensitive Developing Area should extend to the properties fronting on these roads provided that the maximum depth does not exceed 600 feet.

Guidelines for Density – delete this paragraph and insert the following: The County, with the cooperation of the State agencies, is undertaking a study of this area to determine appropriate standards for development that will provide for smart growth while protecting the environment. Until the study is completed and an ordinance adopted, the maximum residential density in this area should be maintained at the current underlying zoning level. The proposed ordinance should allow clustering of lots to minimum size of 7,500 square feet and provide for open space as described in the Community Design Element. When on-site wastewater systems are permitted, the provisions for density as described in the section entitled “Low Density Area” should apply.

No consensus was reached to change the language in the draft Land Use Plan Update.

Mr. Shafer also presented the following language for Guidelines for Density in the Environmentally Sensitive Developing Area (ESDA):

Both the State and the County recognize that the area around the Inland Bays is desirable for appropriate development. However, the Inland Bays are ecologically vulnerable to the impact of insensitive development. Accordingly, the County shall enact an ordinance requiring the Applicant of any major development, as defined in the ordinance, to provide information and analysis addressing the development’s environmental impact, including the treatment of storm water quality and quantity, TMDL impact, mitigation of wetland and woodland disturbance, provision for wastewater treatment and water systems and other matters affecting the ecological sensitivity of the site or the Inland Bays.

Without a central wastewater system, three-quarter acre minimum lot size for single family detached homes. With a central wastewater system, residential density would be permitted up to the maximum allowable density of the underlying zoning district. Clustering of lots in any zoning district to a minimum size of 7,500 square feet should be permitted, but shall not increase the density permitted in that zoning district.

No consensus was reached to change the language in the draft Land Use Plan Update.

**Workshop
(continued)**

6. Approval of the Town Center Language

Mr. Shafer presented the following proposed changes in the language in the draft Land Use Plan Update:

Page 8 – Guidelines for Density” – delete this paragraph and substitute the following:

Medium to high density is encouraged in the Town Center areas; however, the density should not exceed the maximum density allowed by the adjacent municipality. Typical densities would range from four dwelling units per acre for single family detached housing units to twelve dwelling units per acre for multi-family housing in areas where a central water and sewer system is provided. On-site wastewater systems should be discouraged in these areas. When no alternative exists, single-family detached units should be clustered on one-half acre lots, where permitted by DNREC, and a dry wastewater collection system installed. These areas could serve as receiving areas for the transfer of development rights if an ordinance is adopted and the municipality agrees to annex the area.

No consensus was reached to include this language in the draft Land Use Plan Update.

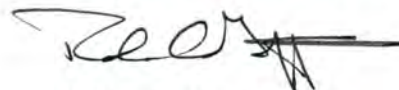
Page 9 – Guidelines for Density – delete this paragraph and insert the following: Developing Areas are suitable for medium density and mixed-use developments. The base density for projects with central wastewater systems should be four dwellings per acre based on the net acreage. Increases in density could be allowed in unique circumstances where the proposed development is adjacent to existing high density areas. Clustering of lots to a minimum size of 7,500 square feet should be allowed and open space should be provided as described in the Community Design Element of the Comprehensive Plan. When on-site wastewater systems are permitted, the provisions for density as described in the section entitled “Low Density Area” should apply.

No consensus was reached to include this language in the draft Land Use Plan Update.

**M 632 02
Adjourn**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to adjourn at 5:15 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



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