

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 28, 2003**

**Call to  
Order**

The regular meeting of the Sussex County Council was held Tuesday, October 28, 2003, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**M 593 03  
Approve  
Agenda**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to amend the Agenda by striking the agenda items under Michael Izzo, County Engineer, as follows:

1. Ellendale Sanitary Sewer District
  - A. Contract A – Change Order Nos. 3 and 4
  - B. Contract C – Change Order No. 1
2. South Coastal Regional Wastewater Facility (SCRWF)
  - A. Expansion No. 2
    1. Construction Management Services;

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 594 03  
Approve  
Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the minutes of October 21, 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 595 03  
Adopt  
Tribute**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt the Tribute congratulating Harry (Bunky) Naugle, recipient of Delmar's Citizen of the Year Award for the Year 2003.

**Motion Adopted: 5 Yea.**

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

**Proposed  
2004  
Holiday  
Schedule,  
and  
County  
Council  
Schedule**

Mr. Stickels presented the proposed 2004 Holiday Schedule, the proposed dates that the County Council will not meet in 2004, and the proposed 2004 night meeting schedule.

The County Council discussed holding all of their meetings at night. Mr. Cole commented that all of the meetings should be held in the evenings or all of the meetings should be held in the daytime.

Mr. Jones commented that he would support keeping the schedule as it is with one Council meeting a month being held in the evening.

A proposal was made that the meetings could start at 4:00 p.m. with public hearings for zoning applications beginning at 6:30 p.m. Comments were made that 4:00 p.m. would still not give the public the opportunity to attend since many people do not get off work until 5:00 p.m.

**M 596 03  
Died**

A Motion was made by Mr. Cole to reject the proposed 2004 night meeting schedule. The Motion died for the lack of a second.

**M 597 03  
All Night  
Meetings  
(Denied)**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to hold all meetings in the evening with the meetings starting at 4:00 p.m. and the public hearings relating to zoning starting at 6:30 p.m.

**Motion Denied: 3 Nay, 2 Yea.**

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

**Discussion**

The County Council discussed holding evening meetings on the second Tuesday of each month in 2004 instead of the third Tuesday as was done in 2003 for the purpose of accommodating the County Attorney's schedule.

**M 598 03  
Adopt  
Schedule**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the 2004 Holiday Schedule, as follows:

**M 598 03****Adopt  
2004****Holiday  
Schedule  
(continued)****2004 Holiday Schedule**

<b>Holiday</b>	<b>State Observance</b>	<b>County Observance</b>
New Year's Day	January 1 (Thursday)	January 1 (Thursday)
Martin Luther King, Jr.'s Birthday	January 19 (Monday)	January 19 (Monday)
Presidents' Day	February 16 (Monday)	February 16 (Monday)
Good Friday	April 9 (Friday)	April 9 (Friday)
Memorial Day	May 31 (Monday)	May 31 (Monday)
Independence Day	July 5 (Monday)	July 5 (Monday)
Labor Day	September 6 (Monday)	September 6 (Monday)
Columbus Day	October 11 (Monday)	October 11 (Monday)
Election Day	November 2 (Tuesday)	November 2 (Tuesday)
Return Day	November 4 (Thursday) (after 12:00 noon, Sussex County only)	November 4 (Thursday)
Veterans' Day	November 11 (Thursday)	November 11 (Thursday)
Thanksgiving Day	November 25 (Thursday)	November 25 (Thursday)
Day After Thanksgiving	November 26 (Friday)	November 26 (Friday)
Christmas Eve		December 24 (Friday)
Christmas Day	December 24 (Friday)	December 27 (Monday)

**Motion Adopted: 5 Yea.**

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

**M 599 03****Adopt  
County  
Council  
Schedule**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the list of dates the County Council will not meet in 2004 and the 2004 Night Meeting Schedule, as follows:

**2004 – No Council Meetings**

February 24, 2004	-	Winter Holiday
March 2, 2004	-	NACo Conference
April 13, 2004	-	Easter Holiday
June 1, 2004	-	Memorial Day Holiday
July 6, 2004	-	Summer Holiday
July 13, 2004	-	Summer Holiday
September 7, 2004	-	Labor Day Holiday
November 2, 2004	-	Election Day
November 23, 2004	-	Thanksgiving Holiday
December 21, 2004	-	Christmas Holiday

**2004 Night Meeting Schedule**

January 13, 2004  
February 10, 2004  
March 9, 2004  
April 20, 2004

**M 599 03  
(continued)**

**May 11, 2004  
June 8, 2004  
July 13, 2004  
August 10, 2004  
September 14, 2004  
October 12, 2004  
November 9, 2004  
December 14, 2004**

**Council meetings will start at 6:30 p.m.  
Zoning hearings will start at 7:45 p.m.**

**Motion Adopted: 5 Yea.**

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

**Surplus  
County  
Vehicles**

**Mr. Stickels advised that the County currently has seven surplus vehicles that are no longer of use to the County and need to be disposed of. Each of the vehicles is a 1998 Plymouth Breeze with over 120,000 miles. The vehicles have the following tag numbers: 1342, 1332, 1329, 1336, 1333, 1340, and 1335. Mr. Stickles advised that, with Council's approval, each of the vehicles will be taken to Wilson's Auction to be sold.**

**M 600 03  
Declare  
County  
Vehicles  
as  
Surplus  
to be  
Sold**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council declares seven vehicles (Tag Numbers 1342, 1332, 1329, 1336, 1333, 1340, and 1335) as surplus County property to be sold at Wilson's Auction.**

**Motion Adopted: 5 Yea.**

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

**Salvage/  
County  
Vehicles**

**Mr. Stickels advised that the County currently has five vehicles (Tag Numbers 1126, 9107, 9101, 9013, and 1100) that can no longer be used, are not safe to be on the road, and need to be sold for salvage. Each of the vehicles has in excess of 150,000 miles. Mr. Stickels advised that the County will obtain prices from three different salvage businesses.**

**M 601 03  
Declare  
County  
Vehicles  
to be  
sold as  
Salvage**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council declares five vehicles (Tag Numbers 1126, 9107, 9101, 9013, and 1100) as salvage; prices will be obtained from three different salvage businesses prior to selling the vehicles.**

**Motion Adopted: 5 Yea.**

M 601 03  
(continued)

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

Adminis-  
trator's  
Report

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

1. Delaware Department of Transportation Public Workshops

The Delaware Department of Transportation (DelDOT) has scheduled two Public Workshops in Sussex County. The first will be held Thursday, November 6, 2003, for Fenwick Island pedestrian improvements. All interested parties are encouraged to attend between 3:00 and 6:00 p.m. at the Fenwick Island Town Hall.

Fenwick Island pedestrian improvements extend from the Fenwick Island border in the north at the intersection of SR1 and Lewes Street to the Delaware/Maryland border in the south. The approximate length of this corridor is 1.3 miles. The project focus would provide treatments for improved travel on and across SR1 in the Town of Fenwick Island. It will include such treatments as sidewalk extensions, sidewalk relocations, new sidewalks, curb ramps, crosswalks, median refuge islands, adding pedestrian signal heads to existing traffic signals, regulatory and warning signage, and striping and traffic calming roadway treatments to better provide for pedestrian travel.

The second workshop will be held at the Rehoboth Convention Center on Wednesday, November 19, 2003, from 4:00 to 7:00 p.m. The purpose of this workshop will be to review the Rehoboth Beach Entrance Project. DelDOT is beginning the project development process that will identify ways to improve the traffic flow to and from the City of Rehoboth Beach, especially at the Route 1 and Route 1A/Rehoboth Avenue intersection.

2. Community Development and Housing Public Hearing and Meeting Dates

Included with this report is a schedule of public hearings necessary for the development of a new Community Development Block Grant application.

To date, 13 meetings have been scheduled. An additional four will be needed, and I will make Council aware of those meetings once the time, date, and location have been selected.

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

**3. Public Safety Grant**

The October monthly meeting of the Sussex County Volunteer Firemen's Association will be held on Tuesday, October 28, 2003, at the Bethany Beach Fire Hall, Bethany Beach, Delaware, at 7:00 p.m. Please note that the meeting is starting one-half hour earlier than normal.

During the meeting the County Council will distribute checks totaling \$772,204.90. This is part of the County Council's grant to the fire and ambulance service of \$2.1 million for FY '04.

**Requests**

Mr. Stickles presented grant requests for Council's consideration.

**M 602 03  
Grant  
Request**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$250.00 from Mr. Dukes' Councilmanic Account to the Downtown Seaford Association for the Halloween Parade.

**Motion Adopted: 5 Yea.**

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

**M 603 03  
Grant  
Request**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$200.00 (\$100.00 each from Mr. Jones' and Mr. Phillips' Councilmanic Accounts) to Delaware Tech Baseball/Softball for the Delaware Tech Marathon Games fundraiser.

**Motion Adopted: 5 Yea.**

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

**Wastewater  
Facilities**

Mr. Baker, Utility Construction Division, discussed wastewater facilities constructed in Avon Park.

**M 604 03  
Execute  
Agreements/  
Avon  
Park**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 288, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Gulfstream Development Corporation for wastewater facilities to be constructed in Avon Park, located in the South Bethany Expansion of the Bethany Beach Sanitary Sewer District.

**Motion Adopted: 5 Yea.**

**M 604 03**  
**Agreements**  
**(continued)**

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

**Old**  
**Business**  
**C/U**  
**No. 1497**

**The County Council considered the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO CONSTRUCT, BUILD, AND REPAIR WOODEN PALLETS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 13.392 ACRES, MORE OR LESS” (Conditional Use No. 1497) filed on behalf of Bobby R. Jones.**

**The Planning and Zoning Commission held a Public Hearing on this application on August 14, 2003 at which time they deferred action. On September 25, 2003 the Commission recommended that the application be denied.**

**The County Council held a Public Hearing on this application on August 26, 2003 at which time they deferred action.**

**Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and discussion under Business. The summary and the findings and recommendations of the Commission were admitted as part of the record of the County Council’s discussion.**

**The County Council discussed the application and the recommendation of the Planning and Zoning Commission. The County Council discussed proposed conditions for consideration.**

**M 605 03**  
**Adopt**  
**Ordinance**  
**No. 1640**  
**(C/U**  
**No. 1497)**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1640 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO CONSTRUCT, BUILD, AND REPAIR WOODEN PALLETS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 13.392 ACRES, MORE OR LESS” (Conditional Use No. 1497) filed on behalf of Bobby R. Jones, with the following conditions:**

- 1. One building not exceeding 48 feet by 64 feet shall be permitted.**
- 2. Applicant shall plant Leyland Cypress with a height of not less than three feet along the property adjacent to Wanda West within 180 days of approval.**
- 3. All work shall be performed inside the permitted building.**
- 4. Hours of operation shall not exceed 6:30 a.m. to 6:30 p.m.**
- 5. All waste materials shall be hauled off-site.**
- 6. Parking for employees shall be of an all weather surface.**
- 7. Sanitary facilities shall be provided for employees.**
- 8. Site activities shall not exceed 3 acres.**

**M 605 03  
(continued)**

9. One unlit sign not exceeding 32 square feet per side or facing shall be permitted.
10. The conditional use shall be limited to permitting a facility for constructing, building and repairing wooden pallets.
11. No repair or service of vehicles shall be performed on the site, with the exception of the property owner's equipment.
12. Site plan shall be reviewed and approved by the Planning and Zoning Commission

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

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

**Public  
Hearing  
C/U  
No. 1481**

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 CONTRACTOR'S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.202 ACRES, MORE OR LESS" (Conditional Use No. 1481) filed on behalf of Darrell L. and Felicia A. Matthews.

The Planning and Zoning Commission held a Public Hearing on this application on February 27, 2003 at which time action was deferred. On March 20, 2003 the Commission discussed the application under Old Business and recommended that the application be approved with conditions. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and discussion under Old Business. The summary and the findings and recommendation of the Commission were admitted as part of the record of the Public Hearing before the County Council.

The County Council discussed the application and the recommendation of the Planning and Zoning Commission.

The County Council previously held a Public Hearing on this application on March 18, 2003. At that time the Council found that there were no parties present on behalf of the application and the Proposed Ordinance was denied due to the lack of representation in support of the application.

On September 16, 2003, the County Council considered a request made by the applicants to have their Public Hearing heard before the Sussex County Council for reconsideration, without having to go through the entire process again. The applicants stated, in a letter dated September 5, 2003, that they misunderstood the process for approval and that is why they were not in attendance on March 18, 2003 at the County Council's Public Hearing.

**Public  
Hearing  
(continued)**

On September 16, 2003 the County Council authorized the re-advertising and rescheduling of the Public Hearing for the reconsideration of the Proposed Ordinance (Conditional Use No. 1481) filed on behalf of Darrell L. and Felicia A. Matthews.

The County Council found that Darrell and Felicia Matthews were present and stated that they own and operate Matthews Masonry; that they intend to improve the property; that they propose to build a 30 foot by 60 foot building; that the building will contain a small office to get the office out of the home; that they have lived on the site for two years; and that they service their own vehicles on the site; however, mechanical work on the vehicles is performed off-site by a mechanic.

There were no public comments in support of or in opposition to the application. The Public Hearing was closed.

**M 606 03  
Adopt  
Ordinance  
No. 1641  
(C/U  
No. 1481)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1641 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR'S OFFICE AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.202 ACRES, MORE OR LESS" (Conditional Use No. 1481) filed on behalf of Darrell L. and Felicia A. Matthews, with the following conditions:

1. One building not exceeding 30 feet by 60 feet shall be constructed within 120 days of approval.
2. Parking for employees shall be to the rear of the newly constructed building.
3. Evergreen screening shall be planted within 180 days of approval along the Route 9 side of the property to screen the business activities. Trees planted shall be at least three feet in height.
4. Hours of operation shall not exceed 6:00 a.m. to 7:00 p.m. Monday through Friday and 7:00 a.m. to 12:00 noon on Saturdays, with no Sunday hours, except for emergencies.
5. One unlit sign not exceeding 32 square feet per side or facing shall be permitted.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
7. A solid fence shall be provided, within 180 days of approval, to screen the area utilized for storage of used bricks and blocks.
8. Site activities shall not exceed 4.5 acres.
9. All waste material shall be hauled off-site.
10. No repair or service of vehicles shall be performed on the site, with the exception of vehicles owned by the applicant.

**Motion Adopted: 5 Yea.**

**M 606 03  
(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 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 250.13 ACRES, MORE OR LESS (Change of Zone No. 1539) filed on behalf of Natelli Communities, Ltd. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed  
Ordinance**

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (3 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 11,850 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1540) filed on behalf of James R. Gibson. The Proposed Ordinance will be advertised for Public Hearing.

**M 607 03  
Recess**

At 11:30 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Cole, to recess until 1:00 p.m. Motion Adopted by Voice Vote.

**Reconvene**

Mr. Rogers called Council back into session at 1:05 p.m.

**Public  
Hearing  
C/U  
No. 1508**

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 BORROW PIT FOR EXTRACTION AND REMOVAL OF SOIL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 86.74 ACRES, MORE OR LESS" (Conditional Use No. 1508) filed on behalf of Ray Lewis.

The Planning and Zoning Commission held a Public Hearing on this application on October 9, 2003 at which time the Commission deferred action. On October 23, 2003 the Commission discussed the application under Old Business and again deferred action to give the applicant time to work with agencies on the negative comments that were made.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary and discussion under Old Business was admitted as part of the record of this Public Hearing.

**Public  
Hearing  
C/U  
No. 1508  
(continued)**

Mr. Lank reported that, since the Public Hearing on October 9th, one letter was received from Elizabeth Brown of Davis, Bowen & Friedel, Inc. Mr. Lank noted that Ms. Brown was in the audience and would, most likely, speak on the contents of the letter.

The Council found that Ray Lewis was present with Jim Reed, Attorney, and Charles Woodruff and Elizabeth Brown of Davis, Bowen & Friedel, Inc.

Mr. Reed stated that a conditional use is appropriate for the parcel; that the adjacent residential lots owned by the applicant will not be sold as long as the borrow operation is going on; that the parcel is zoned AR-1; that the area around the property is mostly wooded; that a need exists for sand and gravel in the area; that with the conditions they are proposing, there would be no adverse impact on adjacent properties; that DelDOT found that the use would not adversely impact traffic and did not recommend a Traffic Impact Study; that there is a need for a borrow pit in the area; that they are providing protection for the neighbors by planting buffers where needed; that it would benefit the local fire company by providing a dry hydrant for their use; and that no one appeared in opposition to the application at the Public Hearing before the Planning and Zoning Commission.

Ms. Brown discussed the hydrologic impacts of the project. She addressed concerns that are contained in the LUPA letter from the Office of State Planning Coordination. She stated that the letter implies that the project is adjacent to the Great Cypress Swamp when in fact, this project is not adjacent to the swamp; and it is over a mile away and is separated by a number of drainage systems which form a dividing line between the hydrology that directly affects the swamp and the pit. She further noted that from a hydrology standpoint, there should not be any drainage from this project into homeowner's wells in the area and the wetlands should not be affected. She noted that DNREC would closely monitor dewatering activities.

Ms. Brown noted that DNREC expressed numerous concerns which were listed in the LUPA letter.

Mr. Cole referenced the comment in the LUPA letter that DNREC wants to meet with the developer and his representatives. Ms. Brown stated that she only recently received the letter and she, along with the applicant, is trying to determine who they should meet with since DNREC's list of concerns are made by several divisions of DNREC.

Mr. Lank suggested that the developer and his representatives should meet with the Office of State Planning Coordination since that office receives comments directly from DNREC.

**Public  
Hearing  
C/U  
No. 1508  
(continued)**

Mr. Woodward of Davis, Bowen & Friedel reviewed the site plan. He stated that the total acreage is 87 acres; that the amount to be mined is about 55 acres; that the property is mostly surrounded by woods; that everything wooded will remain wooded; that the unwooded areas will be buffered; that there will be a 25 foot wooded buffer around the wetlands area; that all wetlands will be retained and buffered; that a 100 foot buffer is proposed along Gum Branch and the five lots owned by the applicant; and that everywhere else there will be a 50 foot buffer along all the property lines.

Mr. Reed read a letter of support from Frank Honess. Mr. Honess states in his letter that there is a desperate need for a borrow pit in the area and that the closest accessible sand source is in Hardscrabble, which is 25 miles away. The letter from Mr. Honess was admitted as part of the record.

Mr. Reed submitted a list of twenty proposed conditions and they were entered into the record. He noted that the condition referencing dredging can be deleted since no dredging will be done.

Mr. Cole requested a map or listing of borrow pits in Sussex County.

Mr. Griffin asked that a wetlands delineation be submitted to the County Council to be entered into the record. Mr. Woodward stated that an application has been filed and can be submitted to the County; however, he noted that verification from the Army Corp of Engineers has not been received as of this date.

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

**M 608 03  
Defer  
Action  
on C/U  
No. 1508**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1508 filed on behalf of Ray Lewis and to leave the record open for comments from the Office of State Planning Coordination and for a list or map of borrow pits in the area.

**Motion Adopted:     5 Yea.**

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

**Public  
Hearing  
C/U  
No. 1509**

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 GARAGES FOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.071 ACRES, MORE OR LESS" (Conditional Use No. 1509) filed on behalf of Dwayne Mousley.

**Public  
Hearing  
C/U  
No. 1509  
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on October 9, 2003 at which time the Commission recommended that the application be approved with conditions.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary and the findings and recommendations were admitted as part of the record of this Public Hearing.

The Council found that Kathy Engle, partner with Dwayne Mousley, was present with Heidi Balliet, Attorney. Ms. Balliet stated that the existing storage building is used for personal vehicles, boats, and lawn equipment; that the proposed storage building is intended for their own personal and business use; that they will not publicly promote the site for storage rental; that they have no intent to make the site appear commercial; that there will be no outside storage except for business vehicles and business trailers or boat trailers; and that the use is consistent with the character of the community.

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

**M 609 03  
Adopt  
Ordinance  
No. 1642  
(C/U  
No. 1509)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1642 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR GARAGES FOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.071 ACRES, MORE OR LESS" (Conditional Use No. 1509) filed on behalf of Dwayne Mousely, with the following conditions:

1. Storage shall be limited to the personal and business use of the applicant and family members.
2. There shall be no outside storage, except for short-term storage of motor vehicles that are properly tagged and licensed.
3. There shall be no signs of any kind.
4. Security lighting shall be indirect lighting designed to shine into the property so as not to disturb adjoining property owners.
5. The entrance location shall remain as it exists.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

**Motion Adopted: 5 Yea.**

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

**Public  
Hearing**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF

**Public  
Hearing  
C/U  
No. 1509  
(continued)**

**SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.48 ACRES, MORE OR LESS” (Change of Zone No. 1519) filed on behalf of Elmer G. Fannin and the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED SUSSEX COUNTY, CONTAINING 32.48 ACRES, MORE OR LESS” (Conditional Use No. 1510) filed on behalf of Elmer G. Fannin.**

**The Planning and Zoning Commission held Public Hearings on these applications on October 9, 2003 at which time the Commission deferred action.**

**Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearings. The summary was admitted as part of the record of these Public Hearings.**

**The Council found that Heidi Balliet, Attorney, Mark Davidson of DC Group, and Dale Faulkner of Country Life Homes were present on behalf of the application. They stated that the change of zone application is for a down-zoning of the property from GR to AR-1 so that an application can be made for a campground; that the applicant lives directly across from the site; that 277 campsites are proposed; that they propose mobile RV camping and tent camping; that on-site water and sewer will be provided during the months the campsite is open (April through October); that the park will not be operational during the other months but they will allow campers to stay without being served with utilities; that five sites will be kept available for transient campers; that the Army Corp of Engineers has approved the wetlands delineation; and that the proposed use is appropriate for the rural setting of the area.**

**Ms. Cole referred to the comments made by the Office State Planning Coordination that the project “does not seem to reflect the character of the surrounding area; that this use, as proposed, would be a rather intense commercial/residential use that is not compatible with lands in a “Rural” designation”. Ms. Balliet stated that she disagrees with the comments made by the Office of State Planning Coordination and referenced the Office’s lack of reference to Pine Haven, which is located in the area.**

**There were no public comments and the Public Hearings were closed.**

**M 610 03  
Defer  
Action**

**A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to defer action on Change of Zone No. 1519 and Conditional Use No. 1510 filed on behalf of Elmer G. Fannin and to leave the record open until the close of business on November 26, 2003 for the purpose of (1) giving the applicant the**

**M 610 03**  
**Defer**  
**Action on**  
**C/Z**  
**No. 1519**  
**and**  
**C/U**  
**No. 1501**  
**(continued)**

opportunity to submit proposed conditions and proposed findings of fact to the County and (2) responding to comments made by the Office of State Planning Coordination and awaiting a return response.

**Motion Adopted: 5 Yea.**

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

**Fire-**  
**damaged**  
**Home in**  
**Shawnee**  
**Acres**

Mr. Rogers apprised the Council of a situation in Shawnee Acres. He reported that a house damaged by fire needs to be boarded up for safety reasons. The owner of the property has been notified several times and has taken no action. In fact, the owner has moved out of state. Mr. Rogers asked for a consensus of Council to proceed with boarding up the home. He noted that legal counsel has stated that the County has the authority to take this action.

Mr. Stickels advised that previous Council action authorized the enforcement of Building Code requirements on renter occupied homes only, not owner occupied.

The County Council discussed whether they should adopt a new policy to apply the Building Code to owner-occupied and non-rental homes when the home is a safety hazard and when the County has made a good faith effort to work with the owner of the property.

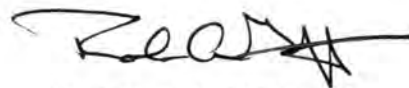
Mr. Phillips stated that he would like more information, in chronological order, on this problem prior to taking any action.

It was the consensus of Council to authorize the County Administrator to take action to board up the home in Shawnee Acres.

**M 611 03**  
**Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 3:00 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



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