



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 13, 2007**

**Call to  
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 13, 2007 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**M 669 07  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to amend the Agenda by moving "Decision on Appeal – Hickory Run Subdivision – Subdivision No. 2006-25" to follow "Executive Session – Potential Litigation"; to amend the second grant to "Greater Delmar Chamber of Commerce"; to change the order of the Public Hearings scheduled at 1:30 p.m. as follows: Conditional Use No. 1704, Conditional Use No. 1706 and Conditional Use No. 1703; 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**

**M 670 07  
Approve  
Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of October 30, 2007.

**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:

**TOWN OF BRIDGEVILLE, BRIDGEVILLE, DELAWARE.**

**RE: Letter in appreciation of the Council's support of the First Bridgeville Charity Open.**

**Corre-  
spondence  
(continued)**

**NANTICOKE HEALTH SERVICES, SEAFORD, DELAWARE.**

**RE: Letter in appreciation of the Council's sponsorship of the Nanticoke Tributes Dinner.**

**Adminis-  
trator's  
Report**

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

**1. Thanksgiving Holiday**

The next meeting of the County Council will be on November 27, 2007, at 10:00 a.m. County offices will be closed on November 22 and November 23, 2007, for Thanksgiving.

**2. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities Meeting – November 19, 2007**

At 10:00 a.m. on November 19, 2007, the Advisory Committee for the Aging and Adults with Physical Disabilities will meet at the West Complex in Georgetown. As per the attached agenda and press release, Mr. Dean Reid, Administrator for the Delaware Veterans' Home, will speak regarding the new facility.

**3. Christmas Parades/Festivities**

Attached is a copy of a schedule showing various Christmas activities for your information.

**4. Delaware Department of Transportation Public Workshops**

Attached are public notices from the Delaware Department of Transportation. The first workshop is regarding Rehoboth Avenue Route 1A intersection improvements scheduled for November 29, 2007, at the Rehoboth Convention Center from 4:00 to 7:00 p.m. The proposed project involves the construction of a traffic signal at the intersection of Rehoboth Avenue and Church Street.

The second public workshop is regarding pedestrian improvements along Route 1 from the Rehoboth Canal to north of Route 9. This workshop is scheduled for December 3, 2007, at the Cape Henlopen High School cafeteria in Lewes. The project includes sidewalk construction to meet ADA guidelines, striping, lighting, and signal upgrades.

**Authorize  
Execution**

**Mrs. Webb advised that, since her appointment to the position of Director of Finance, it has become necessary that the Council take formal action**

**of Loan  
and Grant  
Documents**

**giving her authorization to execute loan and grant documents with the funding agencies.**

**M 671 07  
Authorize  
Susan  
Webb  
to Execute  
Loan  
and  
Grant  
Documents**

**A Motion was made by Mr. Rogers, seconded by Mr. Jones, that Susan M. Webb, Director of Finance of Sussex County, is hereby authorized to execute loan and grant applications for USDA Rural Development, the State of Delaware, and other governmental entities on behalf of Sussex County.**

**Motion Adopted: 5 Yeas.**

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

**Human  
Service  
Grants  
for  
Fiscal  
Year  
2008**

**Mrs. Webb presented a list of proposed Human Service Grants for Fiscal Year 2008 for the Council's consideration:**

<b>Alzheimer's Association</b>	<b>\$ 500.00</b>
<b>American Diabetes Association</b>	<b>\$ 500.00</b>
<b>Anointed Breadbasket Ministries</b>	<b>\$ 500.00</b>
<b>The Arc of Delaware</b>	<b>\$1,000.00</b>
<b>The Beacon Mission</b>	<b>\$ 500.00</b>
<b>Big Brothers/Big Sisters of Delaware, Inc.</b>	<b>\$1,000.00</b>
<b>Boys &amp; Girls Club of Georgetown</b>	<b>\$1,500.00</b>
<b>Boys &amp; Girls Club of Oak Orchard/Riverdale</b>	<b>\$1,500.00</b>
<b>Cape Henlopen Food Basket</b>	<b>\$ 500.00</b>
<b>Calvary Café and Community Clothes Closet</b>	<b>\$ 500.00</b>
<b>Camp Hebron Foundation</b>	<b>\$1,000.00</b>
<b>CHEER Centers</b>	
<b>A. Georgetown</b>	<b>\$5,000.00</b>
<b>B. Greenwood</b>	<b>\$5,000.00</b>
<b>C. Harbour Lights (Lewes)</b>	<b>\$5,000.00</b>
<b>D. Roxana</b>	<b>\$5,000.00</b>
<b>E. Slaughter Neck</b>	<b>\$5,000.00</b>
<b>F. Coastal Leisure Center</b>	<b>\$5,000.00</b>
<b>G. Long Neck (Pelican Cove)</b>	<b>\$5,000.00</b>

	<b>Children &amp; Families First</b>	<b>\$1,000.00</b>
	<b>Church of God and Saints of Christ</b>	<b>\$ 900.00</b>
<b>Human</b>	<b>Community Legal Aid Society, Inc.</b>	<b>\$1,000.00</b>
<b>Service</b>	<b>Contact LifeLine</b>	<b>\$1,000.00</b>
<b>Grants</b>	<b>Dagsboro Church of God</b>	<b>\$1,000.00</b>
<b>for</b>	<b>Delaware Agricultural Museum and Village</b>	<b>\$1,000.00</b>
<b>Fiscal</b>	<b>Delaware Association for Children of Alcoholics</b>	<b>\$ 500.00</b>
<b>Year</b>	<b>Delaware Community Reinvestment Action Council, Inc.</b>	<b>\$ 500.00</b>
<b>2008</b>	<b>Delaware Crime Stoppers</b>	<b>\$ 500.00</b>
<b>(continued)</b>	<b>Delaware Ecumenical Council on Children &amp; Families</b>	<b>\$ 500.00</b>
	<b>Delaware Foundation Reaching Citizens with Cognitive Disabilities</b>	<b>\$2,500.00</b>
	<b>Delaware Guidance Services</b>	<b>\$2,000.00</b>
	<b>Delaware Housing Coalition</b>	<b>\$2,000.00</b>
	<b>Delaware Music School</b>	<b>\$ 500.00</b>
	<b>Delaware Nature Society</b>	<b>\$1,000.00</b>
	<b>Delaware Police Chiefs' Council</b>	<b>\$2,500.00</b>
	<b>Delaware Society for the Prevention of Cruelty to Animals</b>	<b>\$1,000.00</b>
	<b>Delmarva Clergy United in Social Action, Inc.</b>	<b>\$1,000.00</b>
	<b>Dickerson Chapel – African Methodist Episcopal Church</b>	<b>\$1,000.00</b>
	<b>Easter Seal Rehabilitation Center</b>	<b>\$1,000.00</b>
	<b>El Centro Cultural, Inc.</b>	<b>\$1,000.00</b>
	<b>Everlasting Hope Ministries</b>	<b>\$1,000.00</b>
	<b>First Steps Primeros Pasos</b>	<b>\$ 500.00</b>

	<b>Food Bank of Delaware</b>	<b>\$ 500.00</b>
	<b>Georgetown Day Care Center, Inc.</b>	<b>\$1,000.00</b>
<b>Human</b>	<b>Greater Milford Boys &amp; Girls Club</b>	<b>\$1,500.00</b>
<b>Service</b>	<b>The Home of the Brave Foundation, Inc.</b>	<b>\$1,000.00</b>
<b>Grants</b>	<b>Hudson Health Services, Inc.</b>	<b>\$ 500.00</b>
<b>for</b>	<b>Interfaith Mission of Sussex County, Inc.</b>	<b>\$ 500.00</b>
<b>Fiscal</b>	<b>Kent-Sussex Industries, Inc.</b>	<b>\$1,000.00</b>
<b>Year</b>	<b>Kin Folk</b>	<b>\$1,000.00</b>
<b>2008</b>	<b>Kiwanis Foundation of Rehoboth Beach, DE, Inc.</b>	<b>\$1,000.00</b>
<b>(continued)</b>	<b>La Esperanza</b>	<b>\$1,500.00</b>
	<b>Laurel Community Foundation</b>	<b>\$1,000.00</b>
	<b>Laurel Lions Club</b>	<b>\$1,000.00</b>
	<b>Lewes Historical Society</b>	<b>\$1,000.00</b>
	<b>Lower Delaware Autism Foundation</b>	<b>\$1,000.00</b>
	<b>Meals on Wheels of Lewes &amp; Rehoboth, Inc.</b>	<b>\$6,000.00</b>
	<b>Milton Historical Society</b>	<b>\$1,000.00</b>
	<b>Mt. Zion Church</b>	<b>\$ 500.00</b>
	<b>National Multiple Sclerosis Society</b>	<b>\$1,000.00</b>
	<b>New Coverdale Outreach Mission</b>	<b>\$1,500.00</b>
	<b>People's Place II, Inc.</b>	<b>\$2,000.00</b>
	<b>Philadelphia Arms Town Homes, Inc.</b>	<b>\$ 500.00</b>
	<b>Pioneer Club of Sussex County Visually Impaired</b>	<b>\$ 250.00</b>
	<b>Read-Aloud Delaware</b>	<b>\$1,000.00</b>
	<b>The Salvation Army</b>	<b>\$1,000.00</b>

<b>Human Service Grants for Fiscal Year 2008 (continued)</b>	<b>Seaford Historical Society, Inc.</b>	<b>\$1,000.00</b>
	<b>Shechinah Empowerment Center</b>	<b>\$ 500.00</b>
	<b>Southern Delaware Choral Society</b>	<b>\$ 500.00</b>
	<b>Sussex County Senior Centers</b>	
	<b>A. Bridgeville</b>	<b>\$5,000.00</b>
	<b>B. Cape Henlopen</b>	<b>\$5,000.00</b>
	<b>C. Indian River</b>	<b>\$5,000.00</b>
	<b>D. Laurel</b>	<b>\$5,000.00</b>
	<b>E. Lewes</b>	<b>\$5,000.00</b>
	<b>F. Milford</b>	<b>\$5,000.00</b>
	<b>G. Nanticoke</b>	<b>\$5,000.00</b>
	<b>Sussex Community Crisis Housing Services, Inc.</b>	<b>\$2,000.00</b>
	<b>Sussex County Animal Association &amp; Whimsical Animal Rescue</b>	<b>\$ 500.00</b>
	<b>Sussex Family YMCA</b>	<b>\$1,000.00</b>
	<b>Sussex Pregnancy Care Center</b>	<b>\$1,000.00</b>
	<b>Sussex Smiles Dental Care</b>	<b>\$1,000.00</b>
	<b>United Cerebral Palsy of Delaware, Inc.</b>	<b>\$1,000.00</b>
	<b>United Way of Delaware</b>	<b>\$2,000.00</b>
	<b>The Way Home Program</b>	<b>\$1,000.00</b>
	<b>The Wellness Community</b>	<b>\$ 500.00</b>
	<b>West Side New Beginnings, Inc.</b>	<b>\$ 500.00</b>
	<b>Total</b>	<b><u>\$144,650.00</u></b>

Mrs. Webb noted that \$156,000 was budgeted for Human Service Grants in the Fiscal Year 2008 Budget. Mrs. Webb noted that the budgeted amount was increased from \$110,000 to \$156,000 due to an increase in funding to Senior Centers and CHEER Centers. She stated that it was proposed that each center receive a maximum of \$5,000.00, which increased the budgeted amount by \$46,000.00. Mrs. Webb advised that, pending approval of the recommended funding, \$11,350.00 would remain available for allocation.

Mr. Dukes stated that, previously, the Council capped the amount of funding for Human Service Grants at \$110,000.00. Mrs. Webb responded that the amount of the increase (\$46,000.00) was reallocated from another source in the Fiscal 2008 Budget.

Mr. Phillips recommended that a letter be sent to the recipients of Human Service Grants advising them that the funding may not be available next year.

**M 672 07**  
**Approve**  
**Human**  
**Service**  
**Grants**  
**for**  
**Fiscal**  
**2008**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council authorizes the payment of Human Service Grants for Fiscal Year 2008, as recommended.

Motion Adopted: 5 Yeas.

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

**Grant**  
**Request**

Mr. Godwin presented the following request for funding through the Revenue Sharing for Local Law Enforcement Grant Program:

Selbyville                      \$ 25,000.00      2007 Dodge Charger - Patrol Car

**M 673 07**  
**Approve**  
**Local Law**  
**Enforce-**  
**ment**  
**Grant**  
**Request**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the Revenue Sharing for Local Law Enforcement Grant to the Town of Selbyville, as presented.

Motion Adopted: 5 Yeas.

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

**T-Hangar**  
**Policies**  
**and**  
**Lease**  
**Agreements**

Jim Hickin, Director, Sussex County Airport and Industrial Park, reviewed and discussed the following proposed T-Hangar Policies and Lease Agreements:

- A T-Hangar Waiting List Policy which describes the County's policy for filling vacant T-Hangars.
- The termination of all T-Hangar lease documents - 60 days notice to tenants is required to avoid the leases from automatically extending for another year. All current leases have an expiration date of January 2008 and will roll-over for another year unless the 60 day notice is given by either party.
- A standard T-Hangar lease document (Monthly Use and Occupancy Agreement for T-Hangar Units) which addresses issues raised since the last document was approved. New rates are proposed although the changes in the amounts are minimal (less than \$5.00 per lease).
- Approval of the Council President, Vice President, and/or County

**Administrator to execute T-Hangar Leases using the newly approved lease document. This eliminates the need to return to Council for each new lease.**

**M 674 07**  
**Approve**  
**T-Hangar**  
**Waiting**  
**List**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council approves for immediate use, the T-Hangar Waiting List Policy for the Sussex County Airport in the form proposed by Jim Hickin, Director, Sussex County Airport and Industrial Park, on November 13, 2007.**

**Motion Adopted: 5 Yeas.**

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

**M 675 07**  
**Authorize**  
**Termina-**  
**tion of**  
**T-Hangar**  
**Leases**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council authorizes the Director of the Sussex County Airport and Industrial Park to terminate all T-Hangar Leases at the Sussex County Airport upon expiration of their current term.**

**Motion Adopted: 5 Yeas.**

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

**M 676 07**  
**Approve**  
**New**  
**T-Hangar**  
**Agreement**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council approves for immediate use, the Monthly Use and Occupancy Agreement for T-Hangar Units at the Sussex County Airport in the form proposed by Jim Hickin, Director, Sussex County Airport and Industrial Park, on November 13, 2007.**

**Motion Adopted: 5 Yeas.**

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

**M 677 07**  
**Authorize**  
**President,**  
**Vice**  
**President**  
**and County**  
**Adminis-**  
**trator to**  
**to Execute**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council authorizes its President, Vice President, and/or the County Administrator to execute Monthly Use and Occupancy Agreements for T-Hangar Units at the Sussex County Airport, using the form approved by the Sussex County Council on November 13, 2007, and the rental rates as proposed by Jim Hickin, Director of Sussex County Airport and Industrial Park, effective immediately.**

**Motion Adopted: 5 Yeas.**



**Agreements  
for T-  
Hangar  
Units**

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

**Bid  
Results/  
South  
Coastal  
Library  
Building  
Expansion**

Michael Izzo, County Engineer, presented Bid Results for Sussex County Project No. 06-04, South Coastal Library Building Expansion. Nine bidders submitted bids; the low bidder was Nason Construction, Inc. with a Base Bid of \$4,124,000.00 and an Alternate Bid of \$4,204,000.00. Mr. Izzo recommended that the Bid be awarded to Nason Construction, Inc. for the Alternate Bid amount of \$4,204,000.00. (The Engineer's Estimate was \$4,910,750.00 for the Base Bid and \$5,000,750.00 for the Alternate Bid.

Mr. Izzo explained that the Project was originally bid in October; that Nason Construction was the low bidder out of three bidders; that the second low bidder protested the bid award; and that the project was rebid.

**M 678 07  
Award  
Bid to  
Nason  
Con-  
struction/  
South  
Coastal  
Library  
Building  
Expansion**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Consulting Architect, Studio JAED, and the Sussex County Engineering Department, that the Bid submitted for Sussex County Project No. 06-04, South Coastal Library Building Expansion, be awarded to Nason Construction, Inc. of Salisbury, Maryland, at the Alternate Bid amount of \$4,204,000.00.

**Motion Adopted:** 5 Yeas.

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

**Requests**

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

**M 679 07  
Council-  
manic  
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$250.00 (\$50.00 from each Councilmanic Grant Account) to the Sussex County Foster Parent Association for their holiday party.

**Motion Adopted:** 5 Yeas.

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

**M 680 07  
Community  
Investment  
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 from Mr. Phillips' Community Investment Grant Account to the Greater Delmar Chamber of Commerce for the Citizen of the Year reception.

**Motion Adopted:** 5 Yeas.

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

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

- Introduction of Proposed Ordinance**     **Mr. Jones 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 (70 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 22.49 ACRES, MORE OR LESS” (Conditional Use No. 1775) filed on behalf of East Market, LLC. The Proposed Ordinance will be advertised for Public Hearing.**
- Introduction of Proposed Ordinance**     **Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MINI-STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.05 ACRES, MORE OR LESS” (Conditional Use No. 1776) filed on behalf of Mark Schaeffer. The Proposed Ordinance will be advertised for Public Hearing.**
- Introduction of 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 AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 6.0 ACRES, MORE OR LESS” (Change of Zone No. 1635) filed on behalf of Charles Davidson. The Proposed Ordinance will be advertised for Public Hearing.**
- Introduction of 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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.259 ACRES, MORE OR LESS” (Change of Zone No. 1636) filed on behalf of Mark L. Mumford. The Proposed Ordinance will be advertised for Public Hearing.**
- Introduction of Proposed Ordinance**     **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 22.49 ACRES, MORE OR**

**LESS” (Change of Zone No. 1637) filed on behalf of East Market, LLC. The Proposed Ordinance will be advertised for Public Hearing.**

<b>Introduction of Proposed Ordinance</b>	<b>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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.19 ACRES, MORE OR LESS” (Change of Zone No. 1638) filed on behalf of Christopher and Leslie Corado. The Proposed Ordinance will be advertised for Public Hearing.</b>
<b>Additional Business</b>	<b>Daniel Kramer stated that he has the right to visit Councilman Jones without Councilman Cole interfering in the visit.</b>
<b>M 681 07 Executive Session</b>	<b>At 7:20 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Jones, to go into Executive Session for the purpose of discussing potential litigation. Motion Adopted by Voice Vote.</b>
<b>Executive Session</b>	<b>At 7:21 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing potential litigation. The Executive Session concluded at 7:29 p.m.</b>
<b>M 682 07 Reconvene</b>	<b>A Motion was made by Mr. Jones, seconded by Mr. Phillips, to come out of Executive Session and to reconvene the Regular Session at 7:30 p.m. Motion Adopted by Voice Vote.</b>
<b>Decision on Appeal/ Hickory Run Subdivision</b>	<p><b>Mr. Baker reported that, on October 1, 2007, the Council received a request for an Appeal on the decision of the Planning and Zoning Commission to deny the Hickory Run Subdivision (Subdivision No. 2006-25).</b></p> <p><b>Mr. Baker stated that the Council has several options in regards to the Appeal: (1) send the application back to the Commission for further review and consideration, (2) uphold the Commission’s decision, or (3) reverse the Commission’s decision.</b></p> <p><b>Mr. Baker noted that this is the first appeal to be considered by the Council under the new Appeal Process in accordance with Ordinance No. 1829, adopted on February 28, 2006. Under the amended appeal procedure, the Applicant was required to file a court reporter’s transcript of the Hearing before the Commission and they did so on October 1, 2007. Thereafter, Subsection B(2) requires the Council to review the record of the Hearing and make a determination. In addition, the Ordinance requires the Council to make a decision without holding a Public Hearing and to reach its decision with 60 days from the receipt of the transcript. In order to comply with the 60-day time period for taking action, the Council is required to render its decision in open public session no later than Tuesday, November 27, 2007.</b></p>

**M 683 07  
Uphold  
P&Z's  
Decision  
M 683 07  
Uphold  
and Affirm  
P&Z's  
Decision on  
Hickory  
Run Sub-  
division  
Application  
(continued)**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, that the Sussex County Council uphold and affirm the decision of the Planning and Zoning Commission denying approval of the preliminary plan for the Hickory Run Subdivision (Application No. 2006-25) on the basis that the Planning and Zoning Commission did not make an error in its interpretation of the applicable provisions of the Subdivision and Cluster Ordinances and for the further reason that the Planning and Zoning Commission's findings and conclusions were the result of an orderly and logical review of the evidence and the applicable provisions of Chapter 99 and; further, that the Sussex County Council agrees with the Planning and Zoning Commission's conclusion that the Applicant failed to prove sufficient compliance with the seventeen criteria set forth in Chapter 99(c) and failed to establish that the proposed cluster subdivision would have provided a superior environment to a standard three-quarter acre subdivision.

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing  
(C/U  
No. 1704)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR HEALTH CARE AND MEDICAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 33.045 ACRES, MORE OR LESS" (Conditional Use No. 1704) filed on behalf of PMP Associates.

The Planning and Zoning Commission held a Public Hearing on this application on October 25, 2007 at which time the Commission deferred action for further consideration. The record was left open until the close of business on November 8, 2007 for receipt of the PLUS response.

(See the minutes of the meeting of the Planning and Zoning Commission dated October 25, 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, as of this date, no response has been received from PLUS.

Mr. Lank reported that no additional comments have been received since the Public Hearing before the Commission.

**An Exhibit Packet prepared by the Applicant was distributed to the Council.**

**Public  
Hearing  
(C/U  
No. 1704)  
(continued)**

**The Council found that Dr. Paul Brown and Dr. Peter Subak were present on behalf of their application. Also present were William Carello, a Business Advisor, Ted Williams of Landmark Engineering, and James Fuqua, Attorney. They stated that the application is for a health care and medical office complex with a maximum of 102,000 square feet of floor space located within six buildings; that the six buildings will vary in size; that the site contains 33 acres; that the proposed development would be located on the front half of the property on approximately 16 acres; that the rear half of the property contains some non-tidal wetlands and is wooded; that there are no plans for the development of the rear portion of the property; that there are several nearby properties on Route 20 that are zoned for business use including a car sales lot, a grocery store, and apartments; that the site is located on Route 20 near the intersection with Route 54 where extensive residential development currently exists and is planned; that the health care and medical offices will benefit the health, safety, and welfare of the County residents by providing accessible and convenient medical services; that the site is located in the newly created Johnson's Corner Sanitary Sewer District and wastewater capacity will be available for the complex; that the Applicant will help pay for sewer infrastructure; that the complex will be located in a landscaped environment; that the project will have no adverse impact on wetlands, groundwater recharge or other natural conditions; that a Traffic Impact Study was performed and approved by DelDOT; that the Developer will be required to complete roadway improvements as determined by DelDOT; that there will be one entrance off of Route 20 with one acceleration and one deceleration lane; that the makeup of the proposed complex will be based on market factors; that they propose offices for specialists and out-patient services, a sleep lab, a pain center, etc.; and that they propose a medical aid unit that would be open 24 hours a day.**

**It was noted that the plan which was presented to the Planning and Zoning Commission included a helicopter pad; however, it is now understood that this use would require the approval of a separate Conditional Use application; therefore, the helicopter pad is not to be considered as a part of this application.**

**Mr. Fuqua stated that the application did go through the PLUS process and that they have responded to the PLUS comments; however, to date no final response from PLUS has been received.**

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

**M 684 07  
Defer  
Action  
on C/U  
No. 1704**

**A Motion was made by Mr. Rogers, seconded by Mr. Jones, to defer action and to leave the record open for the receipt of additional PLUS comments on Conditional Use No. 1704 filed on behalf of PMP Associates.**

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing  
(C/U No.  
1706)**

**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 AN AUTOMOTIVE UPHOLSTERY BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.176 ACRES, MORE OR LESS” (Conditional Use No. 1706) filed on behalf of Jack Strader.**

**The Planning and Zoning Commission held a Public Hearing on this application on October 25, 2007 at which time the Commission recommended that the application be approved with seven conditions.**

**(See the minutes of the meeting of the Planning and Zoning Commission dated October 25, 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 no additional comments have been received since the Public Hearing before the Commission.**

**The Council found that Jack Strader was present on behalf of his application. He stated that he proposes a home-based automotive upholstery business; that the use would be a low profile business; that he restores and creates interiors for antique vehicles and custom vehicles; that the vehicles that are being worked on will be kept in the pole building/shop; that he has only one employee; that he is building a dwelling in front of the shop; that he occasionally works on Saturdays; that there is adequate space for parking on the site; and that he agrees with the conditions recommended by the Commission.**

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

**M 685 07  
Adopt  
Ordinance  
No. 1940  
(C/U  
No. 1706)**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1940 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE UPHOLSTERY BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.176 ACRES, MORE OR LESS” (Conditional Use No. 1706) filed on behalf of Jack Strader, with the following conditions:**

**M 685 07  
Adopt  
Ordinance  
No. 1940  
(C/U  
No. 1706)  
(continued)**

1. There shall not be any outside storage of cars, equipment or materials used in relation to this business, except on a short-term basis.
2. No vehicles for sale or display shall be located on the premises.
3. The shop shall only be operated between 8:00 a.m. and 5:00 p.m., Monday through Friday, with only limited hours on Saturday.
4. There shall be only one employee in addition to the Applicant working on the premises at any one time.
5. Any security lighting shall be screened so that it does not shine on neighboring properties.
6. One unlighted sign, not to exceed 32 square feet in size, shall be permitted on the site.
7. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing  
(C/U  
No. 1703)**

**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 GENERAL OFFICES AND MINI-STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.91 ACRES, MORE OR LESS” (Conditional Use No. 1703) filed on behalf of RWR9, LLC.**

**The Planning and Zoning Commission held a Public Hearing on this application on October 25, 2007 at which time the Commission deferred action.**

**(See the minutes of the meeting of the Planning and Zoning Commission dated October 25, 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 Exhibit Books provided by the Applicant.**

**Mr. Lank reported that an additional letter (dated November 13, 2007) was received from Dennis Schrader, Attorney, on behalf of the Applicant. The letter references a Contract of Sale between Virginia D. Stamper and Reedwood Development, LLC (Applicant’s predecessor by assignment) and an Addendum to Agreement addressing “conditional use rezoning”, entrance permit approvals, ingress and egress easements, and Seller’s assistance. Mr. Lank distributed copies of the letter including attachments.**

Mr. Lank reported that, on this date, he was given copies of letters that were received by the Councilmen from residents within the general area of the application. The letters were made a part of the record.

Public  
Hearing  
(C/U  
No. 1703)  
(continued)

The Council found that Richard Reed and Mark Woodruff of RWR9, LLC were present on behalf of the application with Dennis Schrader, Attorney, and Mark Davidson and J.C. Owens of DC Group. They stated that the site of the application is located on Route 9 and consists of approximately 5.1 acres; that the property was conveyed to the Applicant (Reedwood Development) in 2004 without any Restrictive Covenants; that the site currently consists of vacant land and a house; that they propose 19,000 square feet of general office space with light retail and 30,400 square feet of storage (to be known as Atlantic Business Center); that they are proposing two 9,500 square foot general office buildings that will maintain a residential appearance; that they are also proposing three buildings for warehousing with small office spaces for contractors and trade companies; that the typical tenants for this project are proposed to be doctors, lawyers, service businesses, and professional offices; that the existing dwelling will be converted into a 2,100 square foot general office building; that the site is located in a Level 3 Investment Area; that the site is surrounded by commercial and conditional uses, i.e. gift shop, antique store, commercial kennel, fencing company, gun shop, home sales office, computer repair store, natural food store, etc.; that they propose to upgrade the existing entrance; that the existing entrance has a 50-foot wide access that is jointly used by the antique store and some residential lots to the south; that there will be a dedicated left turn lane and a deceleration lane built to DelDOT standards; that they have a Letter of No Objection from DelDOT; that there will be no parking in the front setbacks; that all the parking will be to the rear of the buildings; that the buildings will be 60 feet from the current right-of-way line; that they are dedicating 20 feet of land which will be granted to DelDOT; that they will also be dedicating a 15 foot wide permanent easement for a 10 foot multi-modal path; that they propose buffering between this use and the adjacent properties; that they propose a landscaping plan; that there will be landscaping along Route 9; that they propose a rain garden park; that they propose a conservation green design supported by DNREC and the Sussex Conservation District; that they propose that the stormwater pond will be located at the front of the property due to the natural topography of the site; that there is an existing septic system; and that the septic systems will not affect any adjacent wells.

Mr. Reed stated he and Mark Woodruff entered into a contract to purchase this property from Virginia Stamper; that when they entered into the Agreement, it was their original intent to move their business, Atlantic Millwork, to this site; and that it was always their intention to use this site for some form of commercial use.

Public comments were heard.

The Council found that Jerry Little spoke in support of the application. He



stated that he has a Commercial and Agricultural Residential property across the street; that the applicants are established local businessmen; that their current business is a clean operation; and that they have a good relationship with their current neighbors and tenants.

**Public  
Hearing  
(C/U  
No. 1703)  
(continued)**

The Council found that Louse Hanby, Drew Naylor, Denise Irwin, Dean Martin, Peter Beaman, James Hauer, and Robert Atallion were present in opposition to the application. They stated that their greatest concern is the additional traffic that will add to the Route 9 traffic problem and they referenced the closeness to the crest of the hill on Route 9 to the west of the entrance. They expressed concern about the size and scope of the project and stated that the proposed use is out of character with the rural neighborhood; that the small businesses that already exist in the area do not draw a lot of traffic; that the proposed use is an industrial park use / heavy commercial use; that the proposal will bring too much traffic and noise; that 13 dumpsters are proposed; that the project will negatively affect property values; that it is possible there will be hazardous materials and pollutants on the site; that the existing Atlantic Millwork business is supposed to have a residential appearance and it does not; that no specific uses have been cited as tenants; that the proposal is vague; that they question how the sewage and by-products will be treated; that they are concerned about run-off and over-flow of the stormwater pond; that mosquito control should be considered; that three existing septic systems are within 140 feet of the Applicant's proposed wastewater system; that the project will cause stress to area animals; and that there will be more trash blowing around and onto nearby properties.

Mr. Attalion stated that he was asked to sign an Agreement regarding the shared entrance; that there were approximately six residential lots on that Agreement; and that the Agreement did not include Reedwood. He stated that he is responsible for 52 percent of the road maintenance and that the Applicant would be responsible for 12 percent, as a result of their purchasing the property. He stated that he believes that they could come up with an agreement for the maintenance of the road; however, he is unsure what the formula would be and how it would be determined.

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

**M 686 07  
Defer  
Action on  
C/U  
No. 1703**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer action on Conditional Use No. 1703 filed on behalf of RWR9, LLC.

**Motion Adopted: 5 Yeas.**

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

**M 687 07  
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to adjourn at 9:45 p.m. Motion Adopted by Voice Vote.

**Respectfully submitted,**

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