

***SUSSEX COUNTY COUNCIL, GEORGETOWN, DELAWARE – JAN. 4, 2005***

**Call to  
Order**

The regular meeting of the Sussex County Council was held Tuesday, January 4, 2005, 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>Lynn J. Rogers</b>	<b>Member</b>
<b>Vance C. Phillips</b>	<b>Member</b>
<b>Robert L. Stickels</b>	<b>County Administrator</b>
<b>David B. Baker</b>	<b>Finance Director</b>
<b>James D. Griffin</b>	<b>County Attorney</b>

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

**M 001 05  
Suspend  
Rules of  
Order**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to allow for the suspension of the Rules of Order to allow Mr. Stickels to recognize guests in attendance.

**Motion Adopted: 5 Yea.**

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

**Caroling on  
The Circle  
Food Drive  
Recognition**

The County Council recognized the top donors of food items that were collected during the annual Caroling on The Circle Food Drive. Mr. Stickels stated that over 21,000 items of food were collected. Plaques were presented to North Georgetown Elementary School for contributing 2,857 items of food; Beacon Middle School for contributing over 1,300 items of food; and Georgetown Elementary School for contributing over 1,200 items of food. Another top contributor, the Delaware Manufactured Homeowners Association, was not able to be present to receive their plaque in recognition of the 8,000 items of food collected. In attendance from North Georgetown Elementary were Mr. John Hudson, Principal; Mrs. Showell, Counselor and YELL Club Advisor; Mrs. White, Intervention Specialist and YELL Club Advisor; Yell Club Members Kristie Baker, Devlyne King, Kellie Milam, Amber Ryder, Ty'Azsha Sturgis, Quantay Taylor and Edward Wescott; as well as Abbie Landon, Stephanie Legates and Ashlyn Steele who, together, were responsible for collecting 294 food items. Representing Beacon Middle School was Timothy Buckmaster, Principal; and Patti Jo Johnson, Secretary, was in attendance on behalf of Georgetown Elementary School.

**M 002 05  
Approve  
Agenda**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the agenda, as distributed.

**Motion Adopted: 5 Yea.**

- (Con't.)      **Vote by Roll Call:**    **Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Yea**
- M 003 05**      **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to nominate and**  
**Nominate &**      **appoint Finley B. Jones, Jr., as President of the Sussex County Council for the**  
**Appoint**      **Year 2005.**  
**President**
- Motion Adopted:**    **5 Yea.**
- Vote by Roll Call:**    **Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Yea**
- M 004 05**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to nominate and**  
**Nominate &**      **appoint Lynn J. Rogers as Vice President of the Sussex County Council for the**  
**Appoint**      **Year 2005.**  
**Vice**  
**President**
- Motion Adopted:**    **5 Yea.**
- Vote by Roll Call:**    **Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Yea**
- Pass Gavel**      **President Dukes passed the gavel to the newly elected President, Finley B.**  
                         **Jones, Jr.**
- M 005 05**      **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to appoint the**  
**Appoint**      **following attorneys for the Year 2005: James D. Griffin as County Attorney**  
**Attorneys**      **and Attorney for the Sussex County Council; Vincent G. Robertson as**  
                         **Assistant County Attorney and Attorney for the Planning and Zoning**  
                         **Commission; Richard E. Berl, Jr. as Assistant County Attorney and Attorney**  
                         **for the Board of Adjustment; and Rebecca L. Trifillis, Alix K. Robinson and**  
                         **David R. Hackett as Assistant County Attorneys.**
- Motion Adopted:**    **5 Yea.**
- Vote by Roll Call:**    **Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea**
- M 006 05**      **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to reappoint**  
**Appoint**      **Lynn J. Rogers to serve on the Board of Directors for the Delaware League of**  
**Member/DE**      **Local Governments.**  
**League of**  
**Local Gov't.**      **Motion Adopted:**    **5 Yea.**  
**Board of**  
**Directors**      **Vote by Roll Call:**    **Mr. Cole, Yea; Mr. Phillips, Yea;**

(Con't.)

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

**M 007 05  
Recommend  
Appointment  
/NACo  
Board of  
Directors**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recommend the appointment of Finley B. Jones, Jr. to serve on the National Association of Counties Board of Directors.**

**Motion Adopted: 5 Yea.**

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

**M 008 05  
Appoint  
Member/  
Sussex  
Conservation  
District  
Board of  
Directors**

**A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to reappoint Finley B. Jones, Jr. to serve on the Board of Directors for the Sussex Conservation District.**

**Motion Adopted: 5 Yea.**

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

**M 009 05  
Appoint  
Member/  
Sussex  
County  
Airport  
Committee**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to reappoint Lynn J. Rogers to serve on the Sussex County Airport Committee.**

**Motion Adopted: 5 Yea.**

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

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**M 010 05  
Appoint  
Member/  
SCAT  
Steering  
Committee**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to appoint Finley B. Jones, Jr. to serve on the Sussex County Association of Towns' Steering Committee.**

**Motion Adopted: 5 Yea.**

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

**M 011 05  
Appoint  
Members/  
Land Trust  
Committee**

**A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to reappoint Dale R. Dukes and to appoint Vance C. Phillips to serve on the Sussex County Land Trust Committee.**

**Motion Adopted: 5 Yea.**

(Con't.)      **Vote by Roll Call:   Mr. Cole, Yea; Mr. Phillips, Yea;  
                                 Mr. Dukes, Yea; Mr. Rogers, Yea;  
                                 Mr. Jones, Yea**

**M 012 05      A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to readopt the  
Readopt      Rules of Procedure of the Sussex County Council, as written.**

**Rules of      Motion Adopted:   5 Yea.**  
**Procedure**

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

**M 013 05      A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the  
Approve      minutes of the December 7, 2004 meeting, as distributed.**

**Minutes/      Motion Adopted:   5 Yea.**  
**Dec. 7, 2004**

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

**Corre-      Mr. Griffin read the following correspondence:**  
**spondence**

**JUDY TIMMONS, DIRECTOR – JOSEPH'S STOREHOUSE, EMERGENCY  
FOOD PANTRY, DAGSBORO CHURCH OF GOD**

**RE:   Letter of thanks for Council's recent contribution of \$1,000.**

**GEORGE KRUPANSKI, PRESIDENT/CEO, BOYS AND GIRLS CLUB,  
WILMINGTON, DE**

**RE:   Letter of thanks for Council's recent contribution of \$2,500.**

**PATRICIA BEEBE, PRESIDENT/CEO, FOOD BANK OF DELAWARE,  
NEWARK, DE**

**RE:   Letter of thanks for Council's recent contribution of \$500.**

**W. SCOTT KEMERLING, PRINCIPAL, DELMARVA CHRISTIAN HIGH  
SCHOOL, GEORGETOWN, DE**

**RE:   Letter of thanks for Council's recent \$1,000 Youth Activity Grant.**

**BARBARA CARTER AND STAFF, THE WAY HOME**

**RE:   Letter of thanks for Council's recent contribution.**

**BEVERLY ARCIUOLO, VISION DAYS CHAIRMAN, LAUREL LIONS  
CLUB**

**RE:   Letter of thanks for Council's recent contribution of \$400.**

**PAMELLA A. RUSSELL, ASSISTANT COUNTY LIBRARIAN**

**(Con't.)**            **RE:**   Letter of thanks to Council upon her retirement from the Sussex County Department of Libraries, and also for the Council's support of County libraries.

**EOC Update**       **Mr. Izzo, County Engineer, and Mr. Thomas, Director of Emergency Operations, were in attendance to update Council on the Design Phase of the new Emergency Operations Center. Also in attendance from L. Robert Kimball & Associates were Timothy W. Lyle, AIA (Project Architect and Managing Principal), Mr. David Mazeau (Telecommunications & Technology Project Manager), James Szalajeski (Telecommunications Specialist), and Jim Rohler (Telecommunications & Technology Specialist). The new Center will be located at the Sussex County Airport and has been designed to meet the needs of the County through 2025. Mr. Lyle presented Council with a PowerPoint presentation, along with corresponding handouts. The Schematic Design has been completed and the project is, currently, in the middle of the Design Development Phase. Some of the considerations taken into account during the Design Phase included security and terroristic concerns, acoustics, space needs of administrative and emergency personnel (County dispatchers and State Police), lighting, and weather catastrophes. The new facility will have approximately 18,000 square feet of space, more than triple the size of the current Center. A secured perimeter, air filtration system, and facility core hardening are features that are also to be part of the new facility. County employees who were part of the Needs Assessment Phase included Patti Faucett (Accounting/Finance Department), Gary Tonge (Telecommunications Specialist), Chip Larson (EOC), Doug Stewart (Project Engineer), Eddie Sparpagione (Supervisor of Information Systems), along with Joe Thomas and Mike Izzo. The projected cost to the County for the new facility is \$7.7 million, with an additional \$4 million coming from the State. Mr. Stickels stated that he and Mr. Baker, Finance Director, have reviewed County funds and propose that sufficient monies will be in place to allow the County's portion to be paid upon the project's completion, with no tax increase needed. It is hoped that the new Center will be up and running by the end of March 2007, which takes into account the approximate 3 months that will be needed to train staff on the facility's new equipment. Mr. Mazeau mentioned that the Needs Assessment was a key factor in determining the need for an increase in the number of County and State Police dispatchers from 9 to at least 15. Mr. Stickels stated that periodic updates will be given to allow Council to stay informed of the Project's status.**

**Request for Appeal/The Meadows at Creek Run**       **Mr. Stickels reported that he has received a letter dated December 8, 2004 from John A. Sergovic, Jr., attorney for the developer of The Meadows at Creek Run, regarding the Planning and Zoning Commission's decision to deny their preliminary subdivision application request and also in their denial of the request for reconsideration.**

**Mr. Lank reviewed the conditions for the Commission's denial of the application and the request for reconsideration. Mr. Sergovic and the applicant were in attendance. Mr. Servgovic briefly reviewed the points**

(Con't.)                    mentioned in his letter. In Council's discussion of whether an appeal should be granted, Mr. Griffin noted the appeals statute included in the County Code (§ 99-39. B), which states, that if the applicant feels aggrieved, for whatever reason, they may appear before Council to request the reconsideration of the denial of said plat.

**M 014 05**                    A Motion was made by Mr. Phillips, seconded by Mr. Cole, to grant the request  
**Approve**                    for an Appeal Hearing to be held for the Meadows at Creek Run, Subdivision  
**Appeal**                    No. 03-50.

**Hearing/**                    Motion Adopted:    5 Yea.  
**Subdivision**

**No. 03-50/**                    Vote by Roll Call:   Mr. Cole, Yea; Mr. Phillips, Yea;  
**Meadows at**                    Mr. Dukes, Yea; Mr. Rogers, Yea;  
**Creek Run**                    Mr. Jones, Yea

**Request for**                    Mr. Stickels reported that he has received a letter dated December 7, 2004 from  
**Appeal/**                    John A. Sergovic, Jr., attorney for the developer of Morris Mill Pond, LLC,  
**Morris Mill**                    regarding two of the eight conditions imposed by the Planning and Zoning  
**Pond, LLC**                    Commission in its preliminary "approval" of the application.

Mr. Lank reviewed the reasons for the conditions imposed by the Planning & Zoning Commission in their "approval" of the application, and the Commission's denial of their appeal request. Mr. Sergovic and the applicants were in attendance. Mr. Sergovic briefly reviewed the points mentioned in his letter. In Council's discussion of whether an appeal should be granted and what Council should consider as the standard of review, Mr. Griffin noted the need for revision of the appeals statute contained in County Code.

**M 015 05**                    A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to grant the  
**Approve**                    request for an Appeal Hearing to be held for Morris Mill Pond, LLC,  
**Appeal**                    Subdivision No. 03-51

**Hearing/**                    Motion Adopted:    3 Yea; 2 Nay.  
**Subdivision**

**No. 03-51/**                    Vote by Roll Call:   Mr. Cole, Nay; Mr. Phillips, Yea;  
**Morris Mill**                    Mr. Dukes, Yea; Mr. Rogers, Nay;  
**Pond, LLC**                    Mr. Jones, Yea

Mr. Stickels noted that the Public Hearing for both appeals will be held on Tuesday, February 8, 2005, commencing at 7:00 p.m.

**Presentation**                    Representatives from the Sussex Conservation District were in attendance to  
**of Check/**                    accept the County's General Fund Grant of \$175,000. Those present were  
**Sussex**                    Debbie Absher (District Coordinator), Donnie Collins (Board Member), Robert  
**Conservation**                    Baldwin (Director of the Division of Soil & Water Conservation with DNREC),  
**District**                    and Richard Kirschner (District Accountant). Mr. Stickels noted that the  
increase in this year's grant is to allow for additional funding for the Tax Ditch

(Con't.)                      Program.

**M 016 05**                      A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$5,000  
**Community**                      from Mr. Phillips' Community Investment Grant Fund to the Delmar Public  
**Investment**                      Library.

**Grant/Delmar**                      Motion Adopted:    5 Yea.  
**Public**

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

**Adminis-**                      Mr. Stickels submitted the following information in his County Administrator's  
**trator's**                      Report:  
**Report**

**1.        Engineering – Beneficial Acceptance**

The Engineering Department has given Beneficial Acceptance to two projects, the first being Lord Baltimore Landing, Agreement No. 313, on December 21, 2004. This project consists of 85 single-family lots and a pump station located in the South Bethany Sanitary Sewer District, County Road 84. The second project is The Refuge at Dirickson Creek, Phase 4, Agreement No. 371, given Beneficial Acceptance on December 17, 2004. This project consists of 38 single-family lots in the Fenwick Island Sanitary Sewer District on Route 54, west of Shady Park. Included with this report is a fact sheet on each of the projects.

**2.        Standard & Poor's Bond Rating**

I am pleased to inform the Council that on December 1, 2004, Standard & Poor's, a public finance bond rating company, awarded a 'AA' rating on Sussex County's General Obligation Bonds. Standard & Poor's rationale referenced:

- "A modest, but diverse, local economy supported by food processing and tourism, with significant growth in health care facilities catering to a growing retiree population;
- Continued strong residential tax base growth;
- Consistently strong financial performance and management continuity; and
- Low debt levels due to self-supporting utilities and a very manageable capital improvement plan."

The report also stated that, "The stable outlook reflects the expectation that the

(Con't.)                    county will maintain its strong financial performance and manageable debt levels."

I am pleased with the report and have included a copy of the Summary with this report. By maintaining a 'AA' bond rating, the taxpayers of the County will be assured that when it is necessary for the County to borrow money, it will be done at the best rate available.

**Proposed Bank Resolutions**                    Mr. Baker reviewed 7 Proposed Resolutions listing the bank accounts of the Sussex County Council. The adoption of the Proposed Resolutions would reauthorize the accounts for the Year 2005. Mr. Baker noted that one new account has been added – Sussex County Council HPG-04 Account.

**M 017 05 Adopt Resolution No. R 001 05**                    A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 001 05 entitled, "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

**Motion Adopted:**    4 Yea; 1 Absent.

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

**M 018 05 Adopt Resolution No. R 002 05**                    A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 002 05 entitled, "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE FACSIMILE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR".

**Motion Adopted:**    4 Yea; 1 Absent.

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

**M 019 05 Adopt Resolution No. R 003 05**                    A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 003 05 entitled, "CASH MANAGEMENT ACCOUNT RESOLUTION".

**Motion Adopted:**    4 Yea; 1 Not Voting.



(Con't.)      **Vote by Roll Call:**   Mr. Cole, Yea; Mr. Phillips, Yea;  
   Mr. Dukes, Yea; Mr. Rogers, Not Voting;  
   Mr. Jones, Yea

**M 020 05**      **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt**  
**Adopt**      **Resolution No. R 004 05 entitled, "AUTHORIZING THE PAYMENT FROM**  
**Resolution**      **FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE**  
**No.**      **CITIZENS BANK BEARING THE SIGNATURES OF ANY TWO OF**  
**R 004 05**      **FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE**  
                         **PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A**  
                         **SIGNATURE MAY BE A FACSIMILIE PROVIDED ONE LIVE**  
                         **SIGNATURE IS ON CHECK OR WITHDRAWAL".**

**Motion Adopted:**    5 Yea.

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

**M 021 05**      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt**  
**Adopt**      **Resolution No. R 005 05 entitled, "AUTHORIZING THE PAYMENT FROM**  
**Resolution**      **FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE**  
**No.**      **DELAWARE NATIONAL BANK BEARING THE SIGNATURES OF ANY**  
**R 005 05**      **TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE**  
                         **PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A**  
                         **SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE**  
                         **IS ON CHECK OR WITHDRAWAL".**

**Motion Adopted:**    4 Yea; 1 Not Voting.

**Vote by Roll Call:**   Mr. Cole, Yea; Mr. Phillips, Yea;  
   Mr. Dukes, Not Voting; Mr. Rogers, Yea;  
   Mr. Jones, Yea

**M 022 05**      **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt**  
**Adopt**      **Resolution No. R 006 05 entitled, "AUTHORIZING THE PAYMENT FROM**  
**Resolution**      **FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE**  
**No.**      **DELAWARE NATIONAL BANK BEARING THE FACSIMILE**  
**R 006 05**      **SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT;**  
                         **LYNN J. ROGERS, VICE PRESIDENT; OR D. B. BAKER, FINANCE**  
                         **DIRECTOR.**

**Motion Adopted:**    4 Yea; 1 Not Voting.

**Vote by Roll Call:**   Mr. Cole, Yea; Mr. Phillips, Yea;  
   Mr. Dukes, Not Voting; Mr. Rogers, Yea;  
   Mr. Jones, Yea

**M 023 05**  
**Adopt**  
**Resolution**  
**No.**  
**R 007 05**

**A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Resolution No. R 007 05 entitled, “AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE MERCANTILE PENINSULA BANK BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL”.**

**Motion Adopted: 5 Yea.**

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

**OOSD/**  
**Contract No.**  
**99-19E/**  
**Frames Point**  
**Collection &**  
**Conveyance**  
**System/**  
**Bid Results**

**Mr. Izzo, County Engineer, reported that bids were received by the Engineering Department for the Oak Orchard Sanitary Sewer District – Contract No. 99-19E, which is for the “Frames Point Collection & Conveyance System”. Mr. Izzo stated that the Engineer’s estimate was \$1,421,980.00.**

**Metra Industries, Inc. \$1,287,417.20**  
**Little Falls, NJ**

**A.P. Croll & Son, Inc. \$1,460,428.50**  
**Georgetown, DE**

**American Paving Corporation \$2,630,821.50**  
**Salisbury, MD**

**Edw. McGinn General Contractors, Inc. \$2,735,130.00**  
**West Chester, PA**

**M 024 05**  
**Award Bid/**  
**OOSD/**  
**Project No.**  
**99-19-E/**  
**Frames**  
**Point**  
**Collection &**  
**Conveyance**  
**System**

**A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon the recommendation of the Engineering Consultants, Cabe Associates, Inc. and the Engineering Department, that Sussex County Project No. 99-19-E “Frames Point Collection & Conveyance System” be awarded to Metra Industries, Inc. of Little Falls, New Jersey, at the bid amount of \$1,287,417.20.**

**Motion Adopted: 5 Yea.**

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

**P.A.P.I. and**  
**R.E.I.L.**  
**Lights/**  
**Sussex**

**Mr. Sapp, Project Engineer, reviewed the Balancing Change Order and the awarding of Substantial Completion for the project entitled, “Furnish and Install P.A.P.I. (Precision Approach Path Indicator Lights) and R.E.I.L. (Runway End Indicator Lights) Lights. The project, which is located at the**

**County Airport**                      **Sussex County Airport, was begun in 2002 and was physically completed in October 2004. With the 3 change orders that have been needed for this project, Mr. Sapp mentioned that while the initial contract amount was \$74,980, the total contract amount is now \$81,295.97, which is still within the FAA grant budget amount.**

**M 025 05**                      **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the**  
**Approve**                      **recommendation of the Sussex County Engineering Department, that the**  
**Balancing**                      **Sussex County Council approves the Balancing Change Order, No. 3 for**  
**Change Order**                      **Project Number 02-06, Sussex County Airport Furnish and Install P.A.P.I. &**  
**& Substantial**                      **R.E.I.L. Lights, for \$0.00 and to increase the contract time by 117 calendar**  
**Completion/**                      **days, for a total of 654 contract days, and to grant substantial completion to the**  
**P.A.P.I. and**                      **overall project on the retroactive date of October 1, 2004, and release all held**  
**R.E.I.L.**                      **retainage, pending approval from FAA and DelDOT.**

**Lights/Sussex**  
**County**                      **Motion Adopted:    5 Yea.**  
**Airport**

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

**Arrington**                      **Mr. Stickels presented Council with a Fact Sheet regarding the construction**  
**Woods**                      **administration and construction inspection agreement for wastewater facilities**  
**for the project known as Arrington Woods, Sussex County Project No. 81-04,**  
**Agreement No. 373, located within the Fenwick Island Sanitary Sewer District .**

**M 026 05**                      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, that based upon**  
**Execute**                      **the recommendation of the Sussex County Engineering Department, for Sussex**  
**Agreement/**                      **County Project No. 81-04, Agreement No. 373, that the Sussex County Council**  
**Fenwick**                      **execute a construction administration and construction inspection agreement**  
**Island SSD/**                      **between Sussex County Council and “Fifth Venture, L.L.C.”, for wastewater**  
**Arrington**                      **facilities to be constructed in “Arrington Woods”, located in the Fenwick**  
**Woods/Fifth**                      **Island Sanitary Sewer District.**  
**Venture**

**Motion Adopted:    5 Yea.**

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

**M 027 05**                      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500 from**  
**Council**                      **Mr. Phillips' Councilmanic Account to the Town of Frankford to be used by**  
**manic Grant/**                      **the Beautification Committee for Welcome Baskets for new residents.**  
**Town of**

**Frankford**                      **Motion Adopted:    5 Yea.**

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

(Con't.)

Mr. Jones, Yea

**Additional Business/ Agenda Item** Under Additional Business, Mr. Phillips suggested that Council consider a financial donation for the Tsunami disaster relief effort and requested that this item be placed on next week's agenda.

**Public Comment** Mr. Dan Kramer expressed his concern in action taken by Council today in granting \$500.00 in taxpayer money to be used by a Town for welcome baskets.

**Revise Subdivision Ordinance/ Appeals** Mr. Griffin, again, stated his suggestion that Council consider revision and clarification of the County's Subdivision Ordinance as it relates to appeals, and to establish a clear standard of review. It was the consensus of the Council to authorize Mr. Griffin, who will obtain input from Planning and Zoning Commission staff, to prepare a first draft.

**M 027 05 Recess** At 12:57 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Rogers, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

**Reconvene** At 1:30 p.m., Mr. Jones called the Council back into session.

**Public Hearing (C/Z No. 1561) Bargain Bill's** 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 3.45 ACRES, MORE OR LESS" (Change of Zone No. 1561) filed on behalf of Bargain Bill's.

The Planning and Zoning Commission held a Public Hearing on this application on December 9, 2004, at which time they recommended that the application be approved.

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

The County Council found that Bill Brown, the applicant, was present.

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

**M 028 05 Adopt Ordinance No. 1740/ C/Z No. 1561 (Bargain Bill's)** A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1740 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 3.45 ACRES, MORE OR LESS" (Change of Zone No. 1561) filed on behalf of Bargain Bill's.

(Con't.)                      **Motion Adopted:    5 Yea.**

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

**Public  
Hearing  
(C/U No.  
1575)  
American  
Legion  
Post #28**

**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 AND A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A LOCATION FOR ANNUAL CARNIVAL AND CIRCUS EVENTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.645 ACRES, MORE OR LESS” (Conditional Use No. 1575) filed on behalf of American Legion Post #28.**

**The Planning and Zoning Commission held a Public Hearing on this application on December 9, 2004, at which time they recommended that the application be approved with six conditions.**

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

**The County Council found that George Law (Chairman of the House Committee for Post No. 28) and Jim Lafferty (Executive Board) were present on behalf of the application. Both gentlemen stated that the American Legion had no problem with the conditions recommended by the Commission and that the conditions would have no impact on their fundraising events, which are used to benefit other community organizations, as well as in their efforts to enhance the services they provide to veterans.**

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

**M 029 05  
Adopt  
Ordinance  
No. 1741/  
(C/U No.  
1575)  
American  
Legion  
Post #28**

**A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1741 entitled, “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A LOCATION FOR ANNUAL CARNIVAL AND CIRCUS EVENTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.645 ACRES, MORE OR LESS” (Conditional Use No. 1575) filed on behalf of American Legion Post #28, with the following conditions:**

- 1. No more than two (2) events shall be held per year.**
- 2. The events shall be scheduled for no more than seven (7) days and no longer than from 9:00 a.m. to 11:00 p.m.**
- 3. There shall be no permanent structures erected on the site for carnival or circus use.**

(Con't.)

4. The applicants shall provide for prior notification to all fire, police, EMS services of the scheduling of the events and shall provide for traffic control, trash collection, and sanitary facilities.
5. There shall be no fireworks displays.
6. There shall be no parking along Route 24 and Road 298.

**Motion Adopted: 5 Yea.**

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

**Public  
Hearing/  
(C/U No.  
1576)  
Swain Pit,  
Inc.**

**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 AND A GR GENERAL RESIDENTIAL DISTRICT FOR STORAGE OF CLAM SHELLS FOR RECYCLING IN EXISTING BORROW PIT SITE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 40 ACRES, MORE OR LESS" (Conditional Use No. 1576) filed on behalf of Swain Pit, Inc.**

**The Planning and Zoning Commission held a Public Hearing on this application on December 16, 2004, at which time they deferred action.**

**Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the County Council's record. Mr. Lank provided Council with copies of the site plan, and noted that the borrow pit is still in use. The current borrow pit is not part of the application and is only the site for the proposed use.**

**The County Council found that Gerald Swain, the applicant, was present. Mr. Swain stated that, seasonally, approximately 8 to 10 trucks per day could be expected in the hauling of clam shells to their site, which is in keeping with what is currently experienced in the operation of the borrow pit. Council expressed concern with photographs provided showing junked cars and salvage that is presently being stored on the site. The applicant confirmed that the photographs were of his property and will be made part of the record. Mr. Lank stated that the salvage is in violation of the Zoning Ordinance and the applicant will be cited if corrective measures are not taken.**

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

**M 030 05  
Defer Action  
on C/U No.  
1576  
(Swain Pit)**

**A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to defer action on Conditional Use No. 1576 filed on behalf of Swain Pit, Inc.**

**Motion Adopted: 5 Yea.**

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

(Con't.)

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

Public  
Hearing/  
(C/U No.  
1577)  
Brittingham  
& Collins  
General  
Contractors,  
Inc.

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 MODEL HOME FOR MODULAR SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING .062 ACRE, MORE OR LESS" (Conditional Use No. 1577) filed on behalf of Brittingham & Collins General Contractors, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on December 16, 2004, at which time they recommended the application be approved with five conditions.

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

The County Council found that Trent Collins, the applicant, was present. Mr. Collins stated that having a model home on display would provide greater visibility for his business. After the review of the conditions recommended by the Planning & Zoning Commission, Mr. Collins stated that he was in agreement with said conditions.

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

M 031 05  
Adopt  
Ordinance  
No. 1742/  
(C/U No.  
1577)  
Brittingham  
& Collins  
General  
Contractors,  
Inc.

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1742 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODEL HOME FOR MODULAR SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING .062 ACRE, MORE OR LESS" (Conditional Use No. 1577) filed on behalf of Brittingham & Collins General Contractors, Inc., with the following conditions:

1. Business hours shall be limited to 9:00 a.m. to 8:00 p.m. Monday through Saturday, with no Sunday business hours.
2. There shall be no outside storage.
3. One 32-square foot two-sided lighted sign may be permitted.
4. The entrance shall be subject to review and approval by DelDOT.
5. 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. Cole, Yea; Mr. Phillips, Yea;

(Con't.)

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

**M 032 05  
Recess**

**At 2:20 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Jones, to recess to allow time for the applicant of C/U No. 1578 to arrive. Motion Adopted by Voice Vote.**

**Reconvene**

**At 2:32 p.m., a Motion was made by Mr. Dukes, seconded Mr. Cole, to call Council back into session. Motion Adopted by Voice Vote.**

**Public  
Hearing/  
(C/U No.  
1578)  
Blueberry  
Lane Berry  
Farm &  
Orchard,  
LLC**

**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 FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.35 ACRES, MORE OR LESS" (Conditional Use No. 1578) filed on behalf of Blueberry Lane Berry Farm & Orchard, LLC.**

**The Planning and Zoning Commission held a Public Hearing on this application on December 16, 2004, at which time they recommended the application be approved with 5 conditions.**

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

**The County Council found that Joseph Webb, the applicant, was present. In questioning the applicant regarding the recommended conditions, Mr. Webb stated that he would prefer the planting of trees instead of privacy fencing. In speaking with his neighbor after Planning & Zoning's Public Hearing, Mr. Webb reported that the neighbor was also in support of trees being used as privacy screening.**

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

**M 033 05  
Adopt  
Ordinance  
No. 1743/  
(C/U No.  
1578)  
Blueberry  
Lane Farm  
& Orchard,  
LLC**

**A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1743 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM MARKET TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.35 ACRES, MORE OR LESS" (Conditional Use No. 1578) filed on behalf of Blueberry Lane Berry Farm & Orchard, LLC, with the following conditions:**

- 1. Business hours will be from 8:00 a.m. to 8:00 p.m. seven days per week.**
- 2. The existing sign on the premises may be used for advertising of the business.**
- 3. There will be no lighting directed onto the neighboring houses or toward**



(Con't.)

**Road 402.**

- 4. Screening shall be placed along the tax ditch to a depth of 200 feet and shall be subject to review and approval by the Planning and Zoning Commission.**
- 5. The Site Plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.**

**Motion Adopted: 4 Yea; I Absent**

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

**M 034 05  
Adjourn**

**At 2:45 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Dukes, to adjourn. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

**Nancy J. Cordrey  
Assistant Clerk of the County Council**