



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL
GEORGETOWN, DELAWARE, JANUARY 6, 2004

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, January 6, 2004 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 001 04 Approve Agenda

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to delete the following items from the Agenda:

- Under Robert L. Stickels – James Farm Lease
- Under Michael Izzo – Millville Sanitary Sewer District, Escrow Agreement with Whitman, Requardt & Associates for Regional Pump Station and Design Agreement with Whitman, Requardt & Associates for Regional Pump Station

; and, to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 002 04 Nominate and Appoint President

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

Mr. Rogers, Yea

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to nominate and appoint Dale R. Dukes as President of the Sussex County Council for the Year 2004.

M 003 04
Appoint
Vice
President
M 003 04
(continued)

Motion Adopted: 5 Yea.

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

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

Pass
Gavel

Mr. Rogers, Yea

Scheduling
of Zoning
Hearings

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to nominate and appoint Finley B. Jones, Jr. as Vice President of the Sussex County Council for the Year 2004.

M 004 04
Appoint
Attorneys

Motion Adopted: 5 Yea.

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

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

M 005 04
Readopt
Rules of
Procedure

Mr. Rogers, Yea

President Rogers passed the gavel to the newly elected President, Dale R. Dukes.

M 006 04
Approve
Minutes

Mr. Dukes stated that one of the issues he would like to address in 2004 is the length of time it takes for zoning applications to be scheduled for Public Hearing. He acknowledged that

the County receives a large volume of zoning applications and that the Planning and Zoning Commission holds special meetings to accelerate the process; however, he stated that he will be speaking with the members of the Planning and Zoning Commission to discuss other possible solutions.

**M 007 04
Approve
Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to appoint the following for the Year 2004: James D. Griffin as County Attorney 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.

**M 007 04
(continued)**

**Corre-
spondence**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to readopt the Rules of Procedure of the Sussex County Council, as written.

**M 008 04
Authorize
Executive
Session**

Motion Adopted: 5 Yea.

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

**M 009 04
Adopt
Tribute/
Dr. G.
Timothy
Kavel**

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

Mr. Dukes, Yea

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of December 9, 2003.

Legislation

**Pertaining
to
Purchasing
Policy
Thresholds**

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

**Legislation
Pertaining
to
Purchasing
Policy
Thresholds
(continued)**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of
December 16, 2003.**

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

**M 010 04
Support
Amend-
ment to
County's
Purchasing
Policy
Thresholds**

Mr. Griffin read the following correspondence:

JOHN P. WOLFLIN, SUPERVISOR, CHESAPEAKE BAY FIELD OFFICE, UNITED

**Wastewater
Facilities**

**STATES DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE,
ANNAPOLIS, MARYLAND.**

**M 011 04
Execute
Agreements/
Swann**

**RE: Letter in appreciation of the County Council's continued support of their fish and
wildlife programs and initiatives.**

Cove

A Motion was made by Mr. Cole, seconded by Mr. Jones, to authorize an Executive Session to be held immediately following the morning session for the purpose of discussion land acquisition.

Adminis- trator's Report

Motion Adopted: 5 Yea.

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

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

Adminis- trator's Report (continued)

Mr. Dukes, Yea

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Tribute honoring Dr. G. Timothy Kavel, Vice President and Campus Director of the Owens Campus of Delaware Technical & Community College, for his outstanding accomplishments and contributions.

Motion Adopted: 5 Yea.

Proposed Bank Resolutions

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

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

M 012 04 Adopt Resolution No. R 001 04

Mr. Dukes, Yea

Mr. Stickels stated that the General Assembly will be going back into session this month

and he asked for the County Council's direction on a piece of legislation pertaining to purchasing policy thresholds. Current legislation requires the County to:

(1) obtain 3 price quotes for purchases in the amount of \$3,000 to \$10,000 for Material, Public Works and Non-Professional Services;

**R 013 04
Adopt
Resolution
No.
R 002 04**

(2) follow public bidding requirements for purchases in the amount of \$10,000 and more; and

(3) follow the Professional Services Procurement Process for purchases in the amount of \$10,000 and more.

Proposed legislation would require the County to:

**R 013 04
(continued)**

(1) obtain 3 price quotes for purchases in the amount of \$3,000 to \$25,000 for Material, Public Works and Non-Professional Services;

**M 014 04
Adopt
Resolution
No.
R 003 04**

(2) follow public bidding requirements for purchases in the amount of \$25,000 and more for Material, Public Works and Non-Professional Services; and

(3) follow the Professional Services Procurement Process for purchases in the amount of \$50,000 and more.

**M 015 04
Adopt
Resolution
No.
R 004 04**

Mr. Stickels and Mr. Baker stated that the current policy is cumbersome and costly and requires the County to go through the formal bid process for most of its projects. They further stated that the proposed legislation would give the County more flexibility in purchasing services and that it would make the purchasing process more efficient. In addition, the Proposed Legislation would make the Purchasing Policy Thresholds the same

for all three Counties in the State.

**M 016 04
Adopt
Resolution
No.
R 005 04**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, supports the County Administrator's recommendation to amend the County's Purchasing Policy Thresholds.

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

**M 017 04
Adopt
Resolution**

Mr. Stickels discussed wastewater facilities constructed in Swann Cove located in the

**M 017 04
Adopt
Resolution
No.**

Fenwick Island Sanitary Sewer District.

**R 006 04
(continued)**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 301, that the Sussex County Council execute a Construction

**M 018 04
Adopt
Resolution
No.
R 007 04**

Administration and Construction Inspection Agreement between Sussex County Council and West Fenwick Residential, LLC, for wastewater facilities to be constructed in Swann Cove, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 5 Yea.

**Old
Business/
C/U
No. 1492**

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

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

Mr. Dukes, Yea

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

1. Beneficial Acceptance

Please be advised that the Engineering Department gave Beneficial Acceptance for Bayshore Subdivision, Phase II, 2-34-23-Parcel 269, Agreement No. 272, on December 12, 2003. Beneficial Acceptance was also granted on December 17, 2003 for Fairfield at Long Neck, Phase I, 2-34-30, Parcel 8, Agreement No. 295. Included with this report is a fact sheet for each project.

**M 019 04
Adopt
Ordinance
No. 1653
(C/U
No. 1492)**

2. Public Hearing

Please be advised that a Public Hearing on the Proposed Ordinance entitled "AN ORDINANCE PROVIDING FOR THE FEES FOR THE REGISTER OF WILLS, IN AND FOR SUSSEX COUNTY" will be held on Tuesday, January 20, 2004 at 10:45 a.m. Because of the reintroduction of the Proposed Ordinance, it is not possible to hold the Public Hearing as first announced.

3. Council Meeting Reminder

The Council meeting for January 13, 2004 will start at 6:30 p.m. in the Council Chambers. Zoning hearings that evening will start at 7:45 p.m.

Mr. Baker reviewed seven Proposed Resolutions listing the bank accounts of the Sussex County Council. The adoption of the Proposed Resolutions would reauthorize the accounts for the Year 2004.

A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt Resolution No. R 001 04 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 DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Old
Business/
C/U
No. 1513

Motion Adopted: 5 Yea.

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

M 020 04
Adopt
Ordinance
No. 1654
(C/U
No. 1513)

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

Mr. Dukes, Yea

A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt Resolution No. R 002 04 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 DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR".

Motion Adopted: 5 Yea.

Requests

**M 021 04
Council-
manic
Grant**

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

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

Mr. Dukes, Yea**

**M 022 04
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Resolution No. R 003 04 entitled "CASH MANAGEMENT ACCOUNT RESOLUTION".

Motion Adopted: 5 Yea.

**M 023 04
Council-
manic
Grant**

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

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

**M 023 04
(continued)**

Mr. Dukes, Yea

**M 024 04
Youth
Activity
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 004 04 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE CITIZENS BANK BEARING THE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE

	A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR	
M 025 04 Council- manic Grant	WITHDRAWAL”.	
	Motion Adopted:	5 Yea.
	Vote by Roll Call:	Mr. Phillips, Yea; Mr. Cole, Yea;
		Mr. Rogers, Yea; Mr. Jones, Yea;
Cedar Neck Expansion Project/ Contract A		Mr. Dukes, Yea
M 026 04 Approve Change Order/ Contract A/ Cedar Neck Expansion Project	A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Resolution No. R 005 04 entitled “AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE NATIONAL BANK BEARING THE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., 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 Abstention.
Cedar Neck Expansion M 027 04 Grant Substantial Completion/ Cedar Neck Expansion Project	Vote by Roll Call:	Mr. Phillips, Yea; Mr. Cole, Yea;
		Mr. Rogers, Yea; Mr. Jones, Yea;
		Mr. Dukes, Abstained
	A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 006 04	

**Complaints
About
Manholes**

entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE NATIONAL BANK BEARING THE FACSIMILE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR".

**Design
Contract
for
Emergency
Operations
Center and
Records
Storage
Building**

Motion Adopted: 4 Yea, 1 Abstention.

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

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

Mr. Dukes, Abstained

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 007 04 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE BALTIMORE TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

**Design
Contract
(continued)**

Motion Adopted: 5 Yea.

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

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

M 028 04

**Approve
Contract
with L.
Robert
Kimball &
Associates/
Emergency
Operations
Center**

Mr. Dukes, Yea

The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WAREHOUSING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.13 ACRES, MORE OR LESS” (Conditional Use No. 1492) filed on behalf of Rt. 54 Hook & Slice Golf Driving Range, Inc.

**Proposed
Engineering
Services
Agreement
for Plan
Reviews/
Proposed
New Fee
Schedule**

The Planning and Zoning Commission held a Public Hearing on this application on April 17, 2003. On May 8, 2003 the Commission recommended approval with eight conditions.

The Sussex County Council held a Public Hearing on this application on May 6, 2003.

Mr. Lank, Director of Planning and Zoning, noted that when the Commission reviewed this application, there was a letter from the Office of State Planning Coordination containing mixed comments, some negative comments and some comments referencing approval of the application. An additional letter was later received from the Office stating that they do not object to the conditional use because of the similar activities in the general area.

**M 029 04
Approve
Proposed
Fee
Schedule
M 029 04
Approve
Proposed
Fee**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1653 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WAREHOUSING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.13 ACRES, MORE OR LESS”

**Schedule
with
Alternative
(continued)**

(Conditional Use No. 1492) filed on behalf of Rt. 54 Hook & Slice Golf Driving Range, Inc.,
with the following conditions:

**Public
Hearing/
CDBG
Program**

1. The project shall be used for indoor storage purposes only. There shall not be any outside storage, including boats or RVs, within the project.
2. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on any neighboring properties.
3. A landscaped buffer of Leyland Cypress or similar vegetation shall be installed and planted along the eastern border of the project starting at a point 40-feet from Route 54 and shall extend beyond the last building constructed in the project.
4. There shall be no contracting work, office work or general business conducted on the site, and none of the units shall be occupied as the principle place of business by tenants, or owners of the units.
5. None of the units shall be used as contractors' workshops.
6. No more than 10 buildings shall be constructed on the site, with a total number of units not to exceed 60.
7. No buildings shall be constructed on the site on the south side of the existing tax ditch that crosses the property.
8. 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. Rogers, Yea; Mr. Jones, Yea;

Mr. Dukes, Yea

The County Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BAKERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.13 ACRES, MORE OR LESS" (Conditional Use No. 1513) filed on behalf of Linda Thurston and Karen Nash.

Public

**Hearing/
CDBG
Program
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on October 23, 2003. On November 3, 2003 the Commission recommended approval with three conditions.

The Sussex County Council held a Public Hearing on this application on November 4, 2003

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt Ordinance No. 1654 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BAKERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.13 ACRES, MORE OR LESS"

(Conditional Use No. 1513) filed on behalf of Linda Thurston and Karen Nash, with the following conditions:

1. Hours of operation shall be from 6:00 a.m. to 8:00 p.m.
2. There shall only be one 2-foot by 4-foot sign on the building. No additional ground signs shall be permitted.
3. There will be no expansion of the existing building for the bakery; for this reason, no final site plan approval will be required.

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

Mr. Stickels presented funding requests for Council's consideration.

**Public
Hearing/
CDBG
Program
(continued)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00, \$100.00 from each Councilmanic Account, to the Sussex Conservation District for a special project.

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

**M 030 04
Adopt
Resolution
No.
R 009 04**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500.00 from Mr. Cole's Councilmanic Account to West Side New Beginnings, Inc. for the Youth Enrichment Program.

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

**M 031 04
Adopt
Resolution
No.
R 010 04**

**M 032 04
Go into
Executive
Session**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00, \$250.00 each from Mr. Cole's and Mr. Rogers' Councilmanic Accounts, to the Henlopen Theater Project

for operating expenses.

Executive Session	Motion Adopted:	5 Yea.
M 033 04 Conclude Executive Session and Return to Regular Session	Vote by Roll Call:	Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
Agenda Item Announced	A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 to the Lower Sussex Little League, \$500.00 each from Mr. Cole's and Mr. Phillips' Youth Activity Grant Accounts, for lights at the Roxana complex.	
M 034 04 Recess		
Reconvene	Motion Adopted:	5 Yea.
Public Hearing (C/Z No. 1526)	Vote by Roll Call:	Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
	A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$200.00, \$100.00 each from Mr. Jones' and Mr. Dukes' Councilmanic Accounts, to the New Coverdale Outreach Mission for building materials for construction projects.	
	Motion Adopted:	4 Yea, 1 Abstention.

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

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

Mr. Dukes, Abstained

**Public
Hearing
(C/Z
No. 1526)
(continued)**

Mr. Izzo, County Engineer, discussed Change Order No. 1 to Contract A for the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District. Mr. Izzo advised that American Paving is the contractor for Contract A. He noted that Change Order No. 1, in the amount of \$2,844.65 is a result of a pavement upgrade and the addition of a gate valve.

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP, and the County Engineering Department, that Change Order No. 1 for Sussex County Project No. 99-12-A, Cedar Neck Road Collection and Conveyance, with American Paving Corporation be approved in the amount of \$2,844.65, which increases the contract total to \$1,687,557.15.

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

Mr. Izzo reported that Sussex County Project No. 99-12-A, Cedar Neck Road Collection &

Conveyance, has been completed and he requested that Substantial Completion be granted.

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP, and the County Engineering Department, that the Sussex County Council grant Substantial Completion, effective December 3, 2003, to American Paving Corporation, for Sussex County Project No. 99-12 A, Cedar Neck Road Collection and Conveyance, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

**M 035 04
Defer
Action on
C/Z
No. 1526**

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

**Public
Hearing
(C/Z
No. 1527)**

Mr. Cole noted that some of the manholes are “poorly placed” and some of them are “rough and sloppy”. He further noted that he has received complaints about the manholes in the South Coastal area. Mr. Cole stated that the Engineering Department should periodically perform an inspection of the manholes.

Mr. Izzo discussed a Design Contract with L. Robert Kimball and Associates. The firm was selected in 2003 to perform architectural services for buildings that the County plans to modify or erect for a five -year period. Mr. Izzo reported that two projects are pending – a new Emergency Operations Center and a Records Storage Building. The County has been negotiating a contract with Kimball on these projects. The Emergency Operations

Center building, as proposed, is 21,000 square feet. The cost of the project is estimated to be \$4.5 million. This amount is for the construction of the building; it will not furnish the building. The Records Storage Building, as proposed, is 5,000 square feet. The cost of the project is estimated to be \$750,000. This amount does not provide for a records management system.

Mr. Izzo noted that the Design Contract is just for the design of the structures. The cost of the design for the Emergency Operations Center building is \$377,000 and \$80,000 for the Records Storage Building. The design of these structures is proposed to take approximately one year.

Mr. Izzo noted that L. Robert Kimball and Associates, a nationwide firm located in West Chester, Pennsylvania, is a highly recommended company and they have experience in designing 911 centers and record storage centers.

Councilmembers expressed concern about the cost of the design contracts, especially the cost for the Records Storage Building.

Mr. Dukes suggested that the portion of the Design Contract pertaining to the Records Storage Building be deleted and that the County investigate ways to cut the costs for this structure. Mr. Dukes acknowledged that the County needs a records storage facility; however, he stated that the proposed costs were too high for this type of building. It was the consensus of Council to delete the Records Storage Building from the proposed Design Contract.

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the County Engineer, that a contract with L. Robert Kimball and Associates be approved to provide Engineering and Architectural Design Services for Sussex County Project No. 04-02, Emergency Operations Center Building.

Motion Adopted: 5 Yea.

M 036 04
Defer
Action
(C/Z
No. 1527)
M 036 04
(continue d)

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

M 037 04
Adjourn

Mr. Izzo discussed a proposed Engineering Services Agreement with Cabe Associates, Inc. and a proposal to establish a new fee schedule for plan reviews, which were previously discussed at the December 2, 2003 Council meeting. At that meeting, Councilmembers expressed concern that the proposed fee structure reflects substantial increases compared to the fees currently charged by the County. Councilmembers requested that the Engineering Department obtain feedback on the proposed fee structure from developers.

Mr. Izzo reported that approximately forty letters were mailed to developers advising them of the proposal; only three responses were received, two of which were positive.

Mr. Dukes suggested that developers be given the option of paying the new fee schedule to obtain a plan review within thirty days or of paying the County's current fee schedule, with no time constraints. Mr. Dukes further suggested that this option be offered for a period of three months, after which time the County Council will decide whether to continue offering

the option pending a review of compiled information on how many plan reviews are performed by Cabe Associates and how many are performed by the County. It was suggested that a one-year contract be executed with Cabe Associates.

Mr. Izzo noted that Cabe Associates might want to renegotiate the contract if they will not be performing all plan reviews.

A Motion was made by Mr. Jones, seconded by Mr. Rogers, based on the recommendation of the County Engineering Department, that the Sussex County Council approves the Proposed Fee Schedule for Plan Reviews, with an alternative to allow for in-house plan reviews at the current fee structure, and authorizes its President to execute an annual Agreement with Cabe Associates, Inc. to perform plan reviews, contingent upon the Finance Director's approval of the contract form.

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

A Public Hearing was held to give all citizens an opportunity to participate in the development of an application to the State of Delaware Community Development Block Grant Program for a grant under the provisions of the Community Development Act of 1977. The primary objective of the Community Development Program is the development of viable urban communities including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. It is also a primary objective to alleviate physical and economic distress through the stimulation of private investment and

community revitalization in areas of population out-migration or a stagnating or declining tax base.

The Community Development Block Grant is a federal grant from the Department of H.U.D. to the Delaware State Housing Authority. Kent and Sussex Counties compete for the funding by making application to the Delaware State Housing Authority. Historically, 70 percent of the funding is for housing rehab, demolition or code enforcement and 30 percent is for infrastructure projects (streets, sidewalks, water and sewer projects, and hook-ups). There is a matching funds requirement for infrastructure projects.

Mr. Lecates, Director of Community Development, reviewed the income guidelines which applicants must meet to be eligible to receive funding under the CDBG Program.

Mr. Lecates advised that \$2 million is available for Kent and Sussex Counties. Sussex County's application will consist of projects in the County and in the municipalities.

A Proposed Resolution entitled "ENDORSING PROJECTS TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING ROBERT L. STICKELS, COUNTY ADMINISTRATOR, TO SUBMIT APPLICATIONS" was presented to Council for consideration. The Proposed Resolution lists the following projects to be submitted to the Delaware State Housing Authority for funding:

Application No. 1

Sussex County

<i>Scatter Site</i>	<i>\$466,000</i>	<i>Housing Rehabilitation</i>
Coverdale Crossroads	125,000	Housing Rehabilitation
Ellendale Sewer District	342,000	Housing Rehabilitation
Scatter Site	25,000	Hook-ups
Administration	<u>142,000</u>	
<i>Total</i>		<i>1,100,000</i>

Application No. 2

<i>Rehabilitation</i>	<i>Blades</i>	<i>150,000</i>	<i>Housing</i>
	30,000	Demolition	
	40,000	Storm Drainage Study	
Application No. 3			
<i>Rehabilitation</i>	<i>Bridgeville</i>	<i>405,000</i>	<i>Housing</i>
	15,000	Demolition	
Application No. 4			
<i>Rehabilitation</i>	<i>Ellendale</i>	<i>135,000</i>	<i>Housing</i>
	18,000	Water Study	
Application No. 5			
Georgetown	405,000	Housing Rehabilitation	
Application No. 6			
Greenwood	150,000	Housing Rehabilitation	
Application No. 7			
Laurel	92,371	Infrastructure	
	315,000	Housing Rehabilitation	
Application No. 8			
Milford	345,000	Housing Rehabilitation	
Application No. 9			

Milton	255,000 80,000	Housing Rehabilitation Infrastructure
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Application No. 10

Seaford	390,000 20,000	Housing Rehabilitation Hook-ups
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Application No. 11

Selbyville	525,000	Housing Rehabilitation
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Public comments were heard. Mr. Dan Kramer questioned what funds the County will have to match for this program. Mr. Lecates responded that the County's portion would be \$162,000, which will be for administration.

The Public Hearing was closed.

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Resolution No. R 009 04 entitled "ENDORISING PROJECTS TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING ROBERT L. STICKELS, COUNTY ADMINISTRATOR, TO SUBMIT APPLICATIONS"

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Resolution No. R 008 04 entitled "FAIR HOUSING FOR THE CITIZENS OF SUSSEX COUNTY".

Motion Adopted: 5 Yea.

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

At 12:12 p.m., A Motion was made by Mr. Jones, seconded by Mr. Phillips, to go into Executive Session.

Motion Adopted: 5 Yea.

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

An Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers at 12:13 p.m. for the purpose of discussing land acquisition.

At 12:34 p.m., a Motion was made by Mr. Jones, seconded by Mr. Rogers, to conclude the Executive Session and return to regular session.

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

Mr. Stickels announced that he will be placing Land Acquisition on the January 13, 2004 Agenda for the purpose of discussing information provided during the Executive Session on this date.

At 12:35 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess until 1:00 p.m. Motion Adopted by Voice Vote.

Mr. Dukes called Council back into session at 1:00 p.m.

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 385.161 ACRES, MORE OR LESS" (Change of Zone No. 1526) filed on behalf of Bay Forest, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on December 11, 2003, at which time they deferred action and left the record open for written comments until December 31, 2003.

The record of the Planning and Zoning Commission's Public Hearing was admitted as part of the record of this Public Hearing.

Mr. Lank, Director of Planning and Zoning, reported that correspondence was received on December 29, 2003 from John Stamatou of Bay Forest, LLC to William Derrickson, an adjoining party owner, in reference to his Mr. Derrickson's concerns. Also received were

seven letters in support of the application.

The County Council found that John Stamato of Bay Forest, LLC was present with James Fuqua, Attorney; Tom Ford of Land Design, Inc., Consulting Land Planners; Kevin McBride of Morris & Ritchie Associates, Inc., Land Planners and Civil Engineers; and Bob Rodgers of Orth-Rodgers, Traffic Consultants.

The County Council was provided with an Exhibit Booklet on the two projects – Bay Forest Club (Change of Zone No. 1526) and Bay Forest West (Change of Zone No. 1527).

Mr. Fuqua stated that the Public Hearings scheduled on this date are two RPC applications, which are not contiguous. He noted that the developments are approximately 1,000 feet apart. He noted that these developments will be inter-related by way of a single common Homeowners Association and the residents of both of the developments will have use of the common areas, recreational facilities and trail-ways.

Mr. Fuqua stated that during the Public Hearing on the first application (Bay Forest Club) the development team will address all the issues that the two developments have in common and he asked that the information be incorporated into the second Public Hearing.

Mr. Fuqua stated that they are requesting a gross density of 2.1 units per acre; that the application is not for the purpose of increasing density, it was made for design purposes; that both projects are environmentally sensitive; that the Bay Forest Club, containing approximately 385 acres with 29 acres of State wetlands and 18 acres of Federal wetlands,

proposes 808 units and a variety of home types;

Mr. Fuqua stated that Bay Forest Club proposes a net density of 2.49 units per acre and a gross density of 2.1 units per acre; that Bay Forest West, containing 104 acres with no wetlands, proposes a net density of 2.9 units per acre and a gross density of 2.17 units per acre. He noted that the combined density of both projects equals 2.17 units per acre, the same basic density of AR-1 zoning.

Mr. Fuqua presented proposed conditions and proposed findings of fact for Council's consideration.

Public comments were heard. Mr. Al Arrighi submitted a written letter on behalf of the Bethany Forest Homeowner's Association stating their concerns relating to traffic and water supply. Mr. Fred Jackwood spoke and expressed concerns about the reduction of the forest and the impact it will have on wildlife. Anna Volkman also spoke and expressed concerns about the impact on schools, traffic, trash, and pollution.

The Public Hearing was closed.

It was the consensus of Council to leave the record open for written comments to include a response to traffic concerns, information from the Indian River School District, and information from the Town of Bethany Beach and the State Parks referencing provisions for shuttle buses.

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to defer action on Change of

Zone No. 1526; to leave the record open for written comments until the close of business on January 23rd; and further, to leave the record open for an additional week (until the close of business on January 30th) for responses to any written comments received.

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 104.32 ACRES, MORE OR LESS” (Change of Zone No. 1527) filed on behalf of Bay Forest, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on December 11, 2003 at which time they deferred action.

The record of the Planning and Zoning Commission’s Public Hearing was admitted as part of the record of this Public Hearing.

The Council found that the Exhibit Booklet submitted by the Applicant for Change of Zone No. 1526 for Bay Forest Club included information on this application and was made a

part of the record of this Public Hearing.

Mr. Lank reported that at the Planning and Zoning Commission's Public Hearing, 199 form letters were received in opposition to the application. He also reported that on January 6, 2004 an additional 168 form letters were received in opposition to the application.

Mr. Fuqua, Attorney, stated that the form letters submitted were in opposition to this application (Bay Forest West) and not to the previous application (Bay Forest Club); that the current owner of this land is Raymond Banks; that some of the family members of the Banks' family do not want the property sold; that part of the form letter/petition is unfair and misleading; and that Mr. Banks wanted and agreed to sell the land.

Mr. Fuqua and Mr. Ford noted that there are no wetlands on the site; that 227 single-family detached building lots are being proposed; and that property owners in Bay Forest West will share amenities with Bay Forest Club.

Mr. Fuqua requested that all of the testimony on Change of Zone No. 1526 be made a part of the record for this application. Mr. Fuqua submitted proposed conditions and proposed findings for this application.

Public comments were heard. Alan Davis, Attorney for the sons of Raymond Banks, presented 81 additional form letters in opposition to the project. He stated that the application does not reduce traffic congestion, it does not prevent wasteful scattering of the

population, it does not foster the State's agricultural industry; and it does not follow the Livable Delaware legislation. Mr. Davis stated that significant information regarding traffic which was provided by DelDOT in three different letters was omitted from the Applicant's presentation:

- DelDOT states that the project (both projects) would have significant negative impacts on area intersections and traffic conditions.
- DelDOT also stated that the levels of service would not change greatly with the passage of time and the development of Bay Forest since there are no worst levels than Level F.
- The present Route 26 project that DelDOT has proposed is intended to create a balance between traffic congestion relief and maintaining Millville, Ocean View, and surrounding communities as town centers.
- DelDOT states that the proposed combined development doesn't fit the demographic forecast for the year 2025.

Mr. Banks noted that the combined development application would force the expansion of the Route 26 project and will basically wipe out Millville.

Mr. Banks asked Council to seriously consider the Traffic Impact Study and to consider that there are no amenities in Bay Forest West, with the exception of a tennis court.

Mr. Banks acknowledged that the Applicant has proposed paying \$1 million towards road improvements; however, he questioned if that was enough due to the classification of the Level of Service F.

Mr. Dukes requested that copies of the letters from DelDOT be provided to all Councilmembers.

Mr. Richard Volkman stated that his property adjoins the proposed Bay Forest West

property and that he has concerns about water run-off and people trespassing on his property.

The Public Hearing was closed.

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to defer action on Change of Zone No. 1527; to leave the record open for written comments until the close of business on January 23rd; and further, to leave the record open for an additional week (until the close of business on January 30th) for responses to any written comments received.

Motion Adopted: 5 Yea.

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

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

Mr. Dukes, Yea

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to adjourn at 4:05 p.m.

Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith

Clerk of the Council