

***SUSSEX COUNTY COUNCIL, GEORGETOWN, DELAWARE – JAN. 18, 2005***

**Call to  
Order**

The regular meeting of the Sussex County Council was held Tuesday, January 18, 2005, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Finley B. Jones, Jr.</b>	<b>President</b>
<b>Lynn J. Rogers</b>	<b>Vice President</b>
<b>Dale R. Dukes</b>	<b>Member</b>
<b>George B. Cole</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 050 05  
Approve  
Agenda**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the agenda, as distributed.

**Motion Adopted: 5 Yea.**

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

**M 051 05  
Approve  
Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of the January 11, 2005 meeting, as distributed.

**Motion Adopted: 5 Yea.**

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

**Corre-  
spondence**

**Mr. Griffin read the following correspondence:**

**W. LAYTON JOHNSON, GEORGETOWN, DE**

**RE: Letter to Council President announcing his retirement from the Planning & Zoning Commission effective January 31, 2005 due to personal and family health issues.**

**STATE REPRESENTATIVE JOSEPH BOOTH, GEORGETOWN, DE**

**RE: Copy of letter to Governor Minner stating his concern in not receiving a reply to a previous letter requesting the Governor's assistance in procuring lands that could be utilized for annual Sussex County events, including Punkin Chunkin, Millsboro's Big Thursday and Milton's Hot Air Balloon Festival.**

(Con't.)      **ALLISON V. BURRIS, PRESIDENT OF THE BOARD, LAESPERANZA, INC., GEORGETOWN, DE**  
**RE:    Letter of thanks for Council's recent contribution of \$1,500.**

<b>Planning &amp; Zoning Appointment</b>	<p>In light of Mr. Johnson's retirement from the Planning &amp; Zoning Commission effective January 31, 2005, Mr. Stickels also informed Council that several members of the Planning &amp; Zoning Commission and the Board of Adjustment had terms that would be expiring as of June 30, 2005; namely John (Jack) Allen, Ronald McCabe, as well as Mr. Johnson.</p>
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<p><b>M 052 05</b>  <b>Appointment</b>  <b>to Planning</b></p>	<p><b>A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to appoint Michael B. Johnson to the Planning and Zoning Commission to complete the term of W. Layton Johnson beginning February 1 to June 30, 2005.</b></p>
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**Motion Adopted: 5 Yea.**

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

<b>M 053 05</b>	<b>A Motion was made by Dukes, seconded by Mr. Phillips, to appoint Michael B.</b>
<b>Appointment</b>	<b>Johnson to the Planning &amp; Zoning Commission for a three-year term,</b>
<b>to Planning</b>	<b>beginning July 1, 2005 to June 30, 2008.</b>

**Motion Adopted: 5 Yea.**

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

**Gills Neck, LLC**      **Mr. Stickels presented Council with a Fact Sheet regarding the construction administration and construction inspection agreement for wastewater facilities to be constructed in the project known as “Gills Neck, L.L.C.”, Sussex County Project No. 81-04, Agreement No. 357, located within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

<p><b>M 054 05</b>  <b>Execute</b>  <b>Agreement/</b>  <b>Gills Neck,</b>  <b>L.L.C.</b></p>	<p><b>A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 357, that the Sussex County Council execute a construction administration and construction inspection agreement between Sussex County Council and “Gills Neck, L.L.C.”, for wastewater facilities to be constructed in “Gills Neck Shopping Center”, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.</b></p>
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**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

**Skip Jack  
Village  
Condo-  
miniums**

Mr. Stickels presented Council with a Fact Sheet regarding the construction administration and construction inspection agreement for wastewater facilities to be constructed in the project known as Skip Jack Village Condominiums, Sussex County Project No. 81-04, Agreement No. 386, located within the Bethany Beach Sanitary Sewer District.

**M 055 05  
Execute  
Agreement/  
Skip Jack  
Village  
Condo-  
miniums**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 386, that the Sussex County Council execute a construction administration and construction inspection agreement between Sussex County Council and "ACRI Construction", for wastewater facilities to be constructed in "Skip Jack Village Condominiums", located in the Bethany Beach Sanitary Sewer District.

**Motion Adopted: 5 Yea.**

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

**Adminis-  
trator's  
Report**

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

**1. Beneficial Acceptance**

The County Engineering Department granted Beneficial Acceptance on January 12, 2005, for The Retreat - Phase I, Agreement No. 328. The developer is S & B Land, LLC, and the project is in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District at the southeast corner of County Road 277 and County Road 283. This project consists of 42 single-family lots. A fact sheet for the project is included with this report.

**Bid Results/  
Vehicle for  
Sheriff's  
Department**

Frank Shade, Purchasing Agent, reported on the bid results for one vehicle for the Sheriff's Department:

Hertrich Fleet Services	\$27,698.00
I.G. Burton	\$28,799.00

Mr. Shade recommended that the bid be awarded to Hertrich Fleet Services. Mr. Stickels reminded Council that the vehicle had been requested by the Sheriff's Office and funding was approved by the County Council in the 2005 Budget.

**M 056 05  
Award Bid/**

A Motion was made by Mr. Cole that the Sussex County Council accept the bid of Hertrich Fleet Services in the amount of \$27,698.00 for one (1) Chevrolet

**Vehicle for  
Sheriff's  
Department  
MOTION  
DIED**

**Tahoe with the equipment specified in the bid package. Motion died for the lack of a second.**

**It was the consensus of the Council to table action and to put this item back on the agenda for next week to allow Sheriff Reed to be in attendance to answer Council's questions regarding the size of the vehicle, fuel consumption, and the need for 4-wheel drive.**

**M 057 05  
Council  
manic Grant/  
Southern  
Delaware  
School of the  
Arts**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500 (\$250 from Mr. Phillips' and Mr. Cole's Councilmanic Accounts) to the Southern Delaware School of the Arts to be used to offset expenses for the school's Steel Drum Band's trip to Trinidad.**

**Motion Adopted: 5 Yea.**

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

**M 058 05  
Council  
manic Grant/  
Women's  
Club of the  
Keenwicks**

**A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00 from Mr. Phillips' Councilmanic Account to the Women's Club of the Keenwicks to be used to purchase a projector.**

**Motion Adopted: 5 Yea.**

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

**M 059 05  
Council  
manic Grant/  
Sussex  
Central  
Baseball  
Boosters**

**A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$300 (\$100 from Mr. Jones', Mr. Phillips' and Mr. Cole's Councilmanic Accounts) to the Sussex Central Baseball Boosters to be used to purchase equipment for their new facility.**

**Motion Adopted: 5 Yea.**

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

**M 060 05  
Council  
manic Grant/  
Indian River  
Baseball  
Boosters**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$300 (\$150 from Mr. Phillips' and Mr. Cole's Councilmanic Accounts) to the Indian River Baseball Boosters to be used for operating expenses for the 2005 season.**

**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

**M 061 05**      **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500 (\$250 from Mr. Dukes' and Mr. Phillips' Youth Activity Accounts) to Laurel Youth Sports Basketball 2005 to be used for operating expenses for the 2005 season.**

**Youth Activity Grant/**  
**Laurel Youth Sports**      **Motion Adopted:    5 Yea.**

**Basketball 2005**      **Vote by Roll Call:    Mr. Cole, Yea; Mr. Phillips, Yea;**  
   **Mr. Dukes, Yea; Mr. Rogers, Yea;**  
   **Mr. Jones, Yea**

**Balancing Change Order/Joy Beach Subdivision**      **Mr. McCabe, Director of Public Works, reviewed the proposed Balancing Change Order for the Joy Beach Suburban Community Improvement Project. He reported that the balancing change order was for a credit of \$29,056.85. In 2003, a majority of the property owners in the Joy Beach Subdivision had petitioned the County for Suburban Community Improvements in order to perform street and drainage improvements.**

**M 062 05**      **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 be approved for Sussex County Project No. 04-01, Joy Beach Suburban Community Improvements to balance quantities, and increase contract time providing a credit of \$29,056.85, decreasing the contract price from \$152,625.70 to \$127,914.17.**

**Approve Balancing Change Order/Joy Beach Suburban Community Improve**  
**ments**      **Motion Adopted:    5 Yea.**

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

**Proposed Land Acquisition/Sussex County Airport**      **Mr. Izzo, County Engineer, discussed the proposed purchase of land adjacent to the Sussex County Airport. He noted that this is part of the County's acquisition of land to allow for the extension of the main runway at the Sussex County Airport. Mr. Izzo reported that the property is Parcel No. 1-35-20-64, which is owned by Ms. Marie Pepper and contains 20.56 acres. The property has been appraised at \$403,000 (\$19,600 per acre) and the seller has accepted the appraised value and a contract of sale was executed on November 30, 2004. The contract includes the stipulation that Ms. Pepper, aged 94, has a life estate and may continue to live on the property. The Pepper family will operate and maintain the homestead, while Sussex County will take over control of the land, which is currently being farmed.**

**M 063 05**      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the purchase of Parcel 1-35-20-64, totaling 20.56 acres ±, in accordance with the Contract of Sale executed with Ms.**

**Approve Purchase of Land/**

**Sussex  
County  
Airport**

**Marie R. Pepper.**

**Motion Adopted: 5 Yea.**

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

**M 064 05  
Authorize  
Executive  
Session/  
Pending  
Litigation**

**A Motion was made by Mr. Phillips, seconded by Mr. Jones, to authorize an Executive Session to be held for the purpose of discussing pending and existing litigation and to recess for that purpose at 10:35 a.m.**

**Motion Adopted: 5 Yea.**

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

**M 065 05  
Executive  
Session/  
Pending  
Litigation**

**At 10:35 a.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 pending and existing litigation.**

**M 066 05  
Conclude  
Executive  
Session &  
Return to  
Regular  
Session**

**At 11:00 a.m., a Motion was made by Mr. Dukes, seconded by Rogers, to come out of Executive Session and return to Regular Session.**

**Motion Adopted: 5 Yea.**

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

**M 067 05  
Return to  
Regular  
Session**

**A Motion was made by Mr. Rogers, seconded by Mr. Dukes, for Council to return to Regular Session.**

**Motion Adopted: 5 Yea.**

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

**Public  
Hearing/  
Appeal of  
Springfield  
Subdivision  
No. 96-2**

**A Public Hearing was held on the Appeal of Springfield Enterprise, Subdivision No. 96-2 (Country Grove, LLC).**

**Mr. Abbott, Assistant Director of Planning & Zoning, presented and reviewed a brief outline of the development for the subdivision, along with copies of letters that were mailed to the applicant and surveyor. Mr. Abbott reported**

(Con't.)

that the Commission denied the applicant's request for an additional time extension on August 26, 2004 for the following reasons: (1) "The project had been on-going since 1996", (2) "that there are not any agency approvals for the revised plan", and (3) "that there seems to be no rush in getting the project built", and (4) "granting an extension could set a precedence".

At the December 14, 2004 Council meeting, Council granted the applicant's request for a reconsideration of the decision of the Planning & Zoning Commission to deny the applicant's request to set aside the sunset provision contained in Section 99-40.A., which provides that the final subdivision plan approval shall be rendered null and void if substantial construction is not commenced within 5 years of the date of recording the final subdivision plan pursuant to Section 99-11.

Mr. Griffin reported to Council that the appeal is being made under 99-39 of the Subdivision Ordinance, more specifically the Sunset Provision contained in 99-40.A., "Any major subdivision approval granted by the Commission subsequent to the effective date of this section shall be rendered null and void if substantial construction is not commenced thereon within five years of the date of recordation of the final plat". Section E. states that substantial construction "shall mean that the right-of-way has been cleared, the roadway has been rough-graded, the drainage system and/or stormwater management facilities have been rough-graded and erosion and sediment control measures are in place and being actively maintained". Mr. Griffin reminded Council that these are the sections that are at issue today.

The Council found that Carlton Moore, the applicant, as well as the applicant's attorney, Everett Moore, were in attendance. Also in attendance were Mr. Ron Coleman, of Hydes Construction Company, Inc.; Mr. Ross Harris, President of ECI Corporation, and Mr. Steve Engle, with Vista Design Group, Inc.

Mr. Everett Moore reviewed the information packets that were provided to Council by the applicant, which included various letters and exhibits, as well as a step-by-step work schedule from January 1, 1996 through June 3, 2004. Mr. Moore noted that while current zoning would allow modular housing at 4 units per acre, the applicant is proposing stick-built homes at less 2 units per acre.

It is the applicant's position that they are in compliance of doing site work in the land and on the site (temporary entrance, clearing and staking of the roads, tax ditches have been relocated, and other site work onsite). Mr. Moore stated that if the Engineer's Office, prior to sunset, had allowed the applicant to bond items that were approved and had received final approval, the applicant's appearance before Council would not been necessary.

Mr. Harris spoke in regards to the State's sewer moratorium and the design of the three proposed sewer systems for this project, as well as the substantial delays that were incurred as a result. Mr. Engle reported on his involvement in the redesign of the stormwater management system.

(Con't.)

Public comments were received from Mrs. Weaver and Mr. John Powell, neighboring property owners. Mrs. Weaver stated her encouragement that the project included stick-built homes, at lower density. She also expressed concern in receiving conflicting mailings from the applicant as to area residents having to decide whether they wanted to be part of the project's water system. Mr. Moore acknowledged that these mailings were sent out in error as a result of incorrect instructions received by the State's Public Service Commission. It was also Mrs. Weaver's hope that if Council approves an extension, that a stipulation be put in place to ensure that the project would be completed in a timely fashion.

Mr. Kramer, Greenwood resident, spoke in favor of decreased density.

Mr. Powell also stated his support of the project's inclusion of stick-built homes and wanted clarification if modular housing could be allowed. Mr. Griffin explained that the final subdivision site plan, in question, was approved several years ago by the Planning & Zoning Commission and included site-built homes. The only issue is if substantial construction was commenced within the 5-year period following the approval of that site plan. Mr. Griffin went on to explain that if Council decides that there was substantial effort toward construction and overrules Planning and Zoning, then the applicant would still have to build according to their approved final subdivision plan, which is for single family homes, not modular housing.

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

Mr. Griffin reminded Council that the item at issue is if substantial effort was made by the applicant toward construction that prevented the enforcement of the sunset provision. Mr. Griffin read item B. contained in the "Appeals" section (99-39) of the Subdivision Code.

**M 068 05**  
**Defer**  
**Action/**  
**Appeal of**  
**Springfield**  
**Enterprise/**  
**Subdivision**  
**No. 96-2**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to defer action on the Appeal of Springfield Enterprise – Subdivision No. 96-2, and to place the item on the January 25, 2005 agenda.

**Motion Adopted: 5 Yea.**

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

**Fleet Safety**  
**Program**

Mr. Kempf, Safety Director, presented Council with a copy of the proposed "Sussex County Fleet Safety Program". Also in attendance were Randy Miller, CNA Insurance; and Frank Shade, Fleet Manager and Purchasing Agent. Mr. Kempf explained that over the past year, he has meet with several County Department Heads and employees in the preparation of the Safety Program presented today. Currently, the County has approximately 250 vehicles and 350 authorized drivers. Mr. Kempt mentioned that the proposed program



(Con't.) would provide the guidelines needed to ensure that the drivers of County vehicles are trained and competent, as well as ensuring the proper maintenance of vehicles, all of which will have a positive impact on insurance premiums. Within 90 days of employment, any new employee whose job necessitates the driving of a County vehicle, will be required to take an 8-hour basic defensive driving class. Those same employees will also be required to take an advanced defensive driving course.

**M 069 05** A Motion was made by Mr. Phillips, seconded by Mr. Jones, to approve the  
**Approve** "Sussex County Fleet Safety Program" as presented.

**Sussex  
County  
Fleet**

**Motion Adopted: 5 Yea.**

**Safety  
Program**

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

**M 070 05** At 12:10 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Dukes, to  
**Recess** 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. Alix Robinson, Assistant County Attorney, was in attendance for the afternoon session.

**Public** A Public Hearing was held on the Proposed Ordinance entitled, "AN  
**Hearing** ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1  
**(C/U No.** AGRICULTURAL RESIDENTIAL DISTRICT FOR AN UPHOLSTERY  
**1579)** SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND  
**Jody** BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING  
**Sweetman** 3.0395 ACRES, MORE OR LESS" (Conditional Use No. 1579) filed on behalf of Jody Sweetman.

The Planning and Zoning Commission held a Public Hearing on this application on January 6, 2005, at which time they recommended that the application be approved, with 6 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. Mr. Lank provided Council with copies of the site plan.

The County Council found that Jody Sweetman, the applicant, was present. Mr. Sweetman stated his agreement with the Commission's proposed conditions.

Mr. Harry Daisey and Mr. Norris Atkins, neighbors, spoke in support of the application. Mr. Atkins read, and submitted for the record, a prepared statement and noted that he was also speaking on behalf of Norris Adkins, Sr. & Kittie Adkins, Robert & Tammy Bunting, and Norris & Laura Adkins.

(Con't.)

Mrs. Jo Brown, an adjacent property owner, spoke on behalf of herself and her husband. She expressed that if appropriate stipulations were included and enforced to reduce any negative impact on their neighboring property; namely, the inclusion of privacy fencing, lighting restrictions, and a sound barrier, they could, in fact, support the conditional use application. Mrs. Brown also requested that a stipulation be included that the privacy screening be installed no less than two weeks before the end of the appeal period to allow Mr. and Mrs. Brown sufficient time to appeal if the fencing is not put in place. Mr. Lank presented Council with a letter submitted by Mrs. Brown, as well as the site plan, maps and photographs.

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

**M 071 05**  
**Adopt**  
**Ordinance**  
**No. 1745/**  
**C/U No.**  
**1579**  
**(Jody**  
**Sweetman)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1745 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN UPHOLSTERY SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.0395 ACRES, MORE OR LESS" (Conditional Use No. 1579) filed on behalf of Jody Sweetman, with the following conditions:

1. Business hours shall not exceed 7:00 a.m. to 5:00 p.m. Monday through Saturday, with no Sunday hours.
2. A 6-foot high solid fence shall be erected along the tax ditch and rear property line from a point in line with the front corner of the new pole building and the westerly rear corner of the Shop.
3. One on-premise unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.
4. No more than two (2) boats shall be parked outside at any one time.
5. There shall be no outside storage.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
7. Tax ditch shall be designated and easement depicted on site plan.
8. Dumpster shall be located away from neighboring property and shall be subject to Planning and Zoning Commission review and approval.
9. Security lighting shall be directed into the property and shall not impact the neighboring property or Route 370.
10. Landscape screening shall be provided along the westerly property line and 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;**  
**Mr. Dukes, Yea; Mr. Rogers, Yea**  
**Mr. Jones, Yea**

**Public  
Hearing  
(C/U No.  
1580)  
Crawford  
and David  
Matthews**

**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 LUMBER (LOGGING) BUSINESS AND REPAIR AND STORAGE OF EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.13 ACRES, MORE OR LESS” (Conditional Use No. 1580) filed on behalf of Crawford and David Matthews.**

**The Planning and Zoning Commission held a Public Hearing on this application on January 6, 2005, at which time they recommended the application be approved with 7 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. Mr. Lank provided Council with copies of an exhibit booklet provided by the applicant.**

**The County Council found that David Matthews, the applicant, was present, as well as Tim Willard, the applicant’s attorney. Mr. Willard briefly reviewed some of the points included in the applicant’s booklet, and stated that his client proposed 5 of the conditions recommended by the Commission and is in agreement with all 7.**

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

**M 072 05  
Adopt  
Ordinance  
No. 1746/  
(C/U No.  
1580)  
Crawford  
and David  
Matthews**

**A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt Ordinance No. 1746 entitled, “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LUMBER (LOGGING) BUSINESS AND REPAIR AND STORAGE OF EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.13 ACRES, MORE OR LESS” (Conditional Use No. 1580) filed on behalf of Crawford and David Matthews, with the following conditions:**

- 1. The Applicant shall be permitted to operate a logging business headquarters from this property, which includes storage and repair of equipment for the business and an office.**
- 2. All parking of vehicles shall be behind the residential manufactured home in the front of the property.**
- 3. The only lighting shall be for security and directed onto the property.**
- 4. The hours of operations shall be limited to Monday through Friday, 7:00 a.m. until 5:00 p.m.**
- 5. Only one 3-foot by 3-foot sign identifying the business shall be posted at the entrance on Woodland Ferry Road.**
- 6. The change of use of the manufactured home and construction of the dwelling shall be subject to Board of Adjustment review and approval.**

- (Con't.)                    7. 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;  
                              Mr. Dukes, Yea; Mr. Rogers, Yea;  
                              Mr. Jones, Yea**

**Public  
Hearing/  
(C/U No.  
1581)  
Leon L.  
Burton**

**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 BOAT STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 29.138 ACRES, MORE OR LESS” (Conditional Use No. 1581) filed on behalf of Leon L. Burton.**

**The Planning and Zoning Commission held a Public Hearing on this application on January 6, 2005, 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 stated that the application is to be considered by the Planning & Zoning Commission on Thursday, January 20, 2005, under Old Business.**

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

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

**M 073 05  
Defer  
Action  
(C/U No.  
1581)  
Leon L.  
Burton**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1581 filed on behalf of Leon L. Burton.**

**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.  
1582)  
Duane &  
Danielle  
Musser**

**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 SIGN SHOP FOR VEHICLE LETTERING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.15 ACRES, MORE OR LESS” (Conditional Use No. 1582) filed on behalf of Duane and Danielle Musser.**

**The Planning and Zoning Commission held a Public Hearing on this**

(Con't.)                    application on January 6, 2005, at which time they recommended the application be approved with 4 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 Duane Musser, the applicant, was present. Mr. Musser stated that he was in agreement with the 4 conditions recommended by the Commission.

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

**M 074 05**  
**Adopt**  
**Ordinance**  
**No. 1747/**  
**C/U No.**  
**1582**  
**(Duane &**  
**Danielle**  
**Musser)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1747 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SIGN SHOP FOR VEHICLE LETTERING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.15 ACRES, MORE OR LESS" (Conditional Use No. 1582) filed on behalf of Duane and Danielle Musser, with the following conditions:

1. Business hours shall be from 8:00 a.m. to 5:00 p.m. Monday through Saturday, with no Sunday hours.
2. There shall be no more than one (1) vehicle stored outside at any one time.
3. One unlighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.
4. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

**Motion Adopted:    5 Yea.**

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

**Sheriff's**  
**Department/**  
**Vehicles**

Council requested Mr. Stickels to verify what type of lighting package was included in the bid specifications for the Sheriff's vehicle brought before Council today, as well as the lighting included within the current fleet of vehicles for the Sheriff's Department.

**M 075 05**  
**Adjourn**

At 2:28 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Jones, to adjourn. Motion Adopted by Voice Vote.

**Respectfully submitted,**

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