



**Corre-  
spondence**

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

**DELAWARE STORM BASEBALL TEAM, LAUREL, DELAWARE.  
RE: Letter in appreciation of grant.**

**Corre-  
spondence  
(continued)**

**DELAWARE STATE POLICE TROOP 4, GEORGETOWN,  
DELAWARE.  
RE: Letter in appreciation of grant.**

**RHONDA TUMAN, DELAWARE TECHNICAL & COMMUNITY  
COLLEGE, GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of the County Council's co-sponsorship of and  
contribution to the 2004 Women's Day Dinner.**

**FRANK J. MCINTOSH, JUNIOR ACHIEVEMENT, WILMINGTON,  
DELAWARE.  
RE: Letter in appreciation of Human Service Grant.**

**Slam  
Dunk  
to the  
Beach  
Funding  
Request**

**Bobby Jacobs, Executive Director and Chief Executive Officer of Slam  
Dunk to the Beach, was present and thanked the County Council for their  
support and financial assistance over the years. Mr. Jacobs talked about  
previous tournaments and accomplishments. He reported that the event  
brings visitors into the County who contribute approximately \$3.5 million  
to \$4.2 million to the local economy (depending on the report and factor of  
economic development used). Mr. Jacobs asked the County Council to  
consider contributing one percent of this amount for the upcoming year, an  
amount of \$35,000 - \$42,000. The event is scheduled for December 26th –  
30th, 2004 at the Cape Henlopen Sports Arena.**

**Mr. Jacobs also reported that another event, "War on the Shore", is  
scheduled for November 19th, 20th, and 21st, 2004 in Milford. He noted  
that this tournament is for Prep Schools.**

**A discussion was held regarding a new building and different location for  
the Slam Dunk to the Beach event. Mr. Jacobs responded that the idea of a  
new building (sports facility/convention center) is being considered.**

**County Council members told Mr. Jacobs that his request would be taken  
into consideration during the budget process.**

**Waste-  
water  
Facilities**

**Mr. Stickels discussed wastewater facilities to be constructed in the South  
Bethany Sanitary Sewer District and the West Rehoboth Expansion of the  
Dewey Beach Sanitary Sewer District.**

**M 166 04  
Execute  
Agreements/**

**A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the  
recommendation of the Sussex County Engineering Department, for Sussex  
County Project No. 81-04, Agreement No. 324, that the Sussex County**

**Donohoe Subdivision**      **Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Leo Donohoe for wastewater facilities to be constructed in Donohoe Subdivision, located in the South Bethany Sanitary Sewer District.**

**Motion Adopted:      3 Yea, 2 Absent**

**M 166 04 (continued)**      **Vote by Roll Call:      Mr. Phillips, Absent; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Absent**

**Mr. Phillips was not present during the vote.**

**M 167 04**      **A Motion was made by Mr. Rogers, seconded by Mr. Cole, based upon the**  
**Execute**      **recommendation of the Sussex County Engineering Department, for Sussex**  
**Agreements/**      **County Project No. 81-04, Agreement No. 328, that the Sussex County**  
**The**      **Council execute a Construction Administration and Construction**  
**Retreat**      **Inspection Agreement between Sussex County Council and S & B Land, LLC, for wastewater facilities to be constructed in The Retreat, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

**Motion Adopted:      3 Yea, 2 Absent.**

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

**Mr. Phillips was not present during the vote.**

**Preliminary Land Use Service (PLUS) Process**      **Mr. Stickels announced that the Office of State Planning Coordination is currently in the transition from the old Land Use Planning Act (LUPA) process to the new Preliminary Land Use Service (PLUS) process. Senate Bill No. 65, which changed Title 29, Chapter 92, of the Delaware Code, went into effect on February 14, 2004. In October 2003, the County Council entered into an Agreement with the Office of State Planning Coordination, as required by State Law. The Agreement requires projects to go through the Preliminary Land Use Service (PLUS) process. Under the Agreement, the following development activities must first be submitted to the Office of State Planning Coordination for review:**

- 1. Any Residential Planned Community.**
- 2. Major residential subdivisions containing 50 dwelling units, as defined in Title 29, Section 9203.**
- 3. Any non-residential subdivision or site plan involving the expansion of an existing structure by 25 percent with a total floor area exceeding 75,000 square feet or new construction involving structures or buildings with a total floor area exceeding 75,000 square feet.**
- 4. Any rezoning within the Environmentally Sensitive Development District identified in Sussex County's Comprehensive Plan Update**

adopted December 10, 2002, that would increase intensity or residential density.

5. Applications for rezoning that are inconsistent with the Sussex County Comprehensive Plan Update adopted December 10, 1002.
6. Any local land use regulation, ordinance or requirement referred to the Office of State Planning Coordination by Sussex County for the purpose of providing the County with advisory comments. These include the modifications to the County's zoning and subdivision ordinances that implement the Comprehensive Plan.
7. Any amendment, modification or update to the Sussex County Comprehensive Plan, as required by Title 9 of the Delaware Code.

PLUS  
(continued)

Adminis-  
trator's  
Report

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

1. Airport Committee Meeting

The next regularly scheduled meeting of the Sussex County Airport Committee will be held on Wednesday, April 7, 2004, at the Sussex County Administrative Office Building, West Complex, North DuPont Highway, Georgetown, Delaware, starting at 10:00 a.m. The media as well as the general public is welcome to attend this meeting.

2. Donald Ray Ellerman

It is with sorrow that I inform the Council of the passing of Clerk of the Peace Donald Ray Ellerman on Sunday, March 14, 2004. Ray had served in the position of Clerk of the Peace since January of 1995. Ray would do everything within his power to make sure that any marriage he performed met to the satisfaction of the bride and groom, even if it meant he would have to marry someone on the beach or during a Fourth of July festival.

Mr. Ellerman will be missed by all. His position will be filled by an appointment from Governor Minner.

Cedar  
Neck  
Expansion  
of the  
BBSSD/  
Contract C/

Mr. Izzo, County Engineer, reviewed a Change Order to Sussex County Project No. 99-12C, Sandy Cove Road Collection & Conveyance, Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District. The Change Order, in the amount of \$2,336.05, is due to: (1) an increase in amp service to the pump stations (\$1,786.00) and (2) to a property owner in the vicinity that requested a manhole shift and an additional lateral to his property (\$550.00). The property owner will pay the \$550.00. American Paving is the contractor for the project.

M 168 04  
Approve  
Change  
Order/  
Contract C/

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 Change Order No. 1 for Sussex County Project No. 99-12C, Sandy Cove Road Collection & Conveyance", be approved in the amount of \$2,336.05, which

**Cedar Neck Expansion of the BBSSD** increases the contract total to \$2,868,688.05, contingent upon the approval of the Delaware Department of Natural Resources and Environmental Control and the Rural Utility Service.

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

**M 168 04 (continued)** **Vote by Roll Call:** Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Absent

**Cedar Neck Expansion of the BBSSD/ Change Order** Mr. Izzo reviewed a Change Order to Sussex County Project No. 99-12D, Piney Point - Murray's Estates Collection & Conveyance, Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District. The Change Order, in the amount of \$18,165.00, is due to a requested upgrade to the roads in Murray's Estates. The Homeowner's Association has agreed to pay for the upgrade. A. P. Croll is the contractor for the project.

**M 169 04 Approve Change Order/ Contract D/ Cedar Neck Expansion of the BBSSD** A Motion was made by Mr. Cole, seconded by Mr. Phillips, 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. 99-12D, Piney Point - Murray's Estates Collection & Conveyance, be approved in the amount of \$18,165.00, which increases the contract total to \$1,909,387.50, contingent upon the approval of the Delaware Department of Natural Resources and Environmental Control and the Rural Utility Service.

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

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

**SCRWF Sludge Handling Upgrade Project/ Odor Control System** Mr. Izzo reviewed a Change Order to the Sludge Handling Upgrade Project for the installation of an Odor Control System at the headworks of the South Coastal Regional Wastewater Facility. Mr. Izzo stated that this upgrade was scheduled for Phase 2 of the project; however, due to a number of complaints received over the summer, it has been proposed that the Odor Control System be included in Phase 1. Mr. Izzo reported that the contractor provided a cost estimate of \$300,000 and that the price has been negotiated down to \$247,935.25. The County Engineering Department's price estimate was \$182,000. The contractor has estimated that the project could be completed by August 1, 2004.

**M 170 04 Approve Change Order/ SCRWF** A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Sussex County Project No. 02-12, Sludge Handling Upgrade to the South Coastal Regional Wastewater Facility, be approved in the amount of \$247,935.25, which increases the contract total from

- Sludge Handling Upgrade Project/ Odor Control System Grant Requests**      **\$3,395,172.50 to \$3,643,107.75.**
- Motion Adopted:**      **4 Yea, 1 Absent.**
- Vote by Roll Call:**      **Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Absent**
- Mr. Stickels presented grant requests for the County Council's consideration.**
- 
- M 171 04 Councilmanic Grant**      **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$959.00 from Mr. Cole's Councilmanic Account to V.F.W. Post #10638 for insurance premium costs.**
- Motion Adopted:**      **4 Yea, 1 Abstention, 1 Absent.**
- Vote by Roll Call:**      **Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Rogers, Abstained; Mr. Jones, Yea;  
Mr. Dukes, Absent**
- 
- M 172 04 Councilmanic Grant**      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$600.00, \$120.00 from each Councilmanic Account, to Delaware State Police Troop #5 for the Citizens Police Academy Program.**
- Motion Adopted:**      **4 Yea, 1 Absent.**
- Vote by Roll Call:**      **Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Absent**
- 
- M 173 04 Councilmanic Grant**      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00, \$100.00 from each Councilmanic Account, to Sussex Central Middle School Band Boosters for band uniforms.**
- Motion Adopted:**      **4 Yea, 1 Absent.**
- Vote by Roll Call:**      **Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Absent**
- 
- M 174 04 Councilmanic Grant**      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$1,000.00, \$200.00 from each Councilmanic Account, to the American Cancer Society for the Relay for Life Fundraiser.**
- Motion Adopted:**      **4 Yea, 1 Absent.**
- Vote by Roll Call:**      **Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Absent**

- Introduction of Proposed Ordinance**     **Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ADDITION TO AN EXISTING CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.09 ACRES, MORE OR LESS” (Conditional Use No. 1567) filed on behalf of William H. Prettyman, Jr. The Proposed Ordinance will be advertised for Public Hearing.**
- (continued)**
- Introduction of Proposed Ordinance**     **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT REPAIR AND ACCESSORY INSTALLATION BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.67 ACRES, MORE OR LESS” (Conditional Use No. 1568) filed on behalf of Douglas W. Brockway. The Proposed Ordinance will be advertised for Public Hearing.**
- Introduction of Proposed Ordinance**     **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF BIO-SOLIDS FROM MOUNTAIRE WASTEWATER TREATMENT SYSTEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING A TOTAL OF 376.32 ACRES, MORE OR LESS” (Conditional Use No. 1569) filed on behalf of Mountaire Farms of Delaware, Inc. (Cordrey Tract and Frame Tract). The Proposed Ordinance will be advertised for Public Hearing.**
- Introduction of Proposed Ordinance**     **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF BIO-SOLIDS FROM MOUNTAIRE WASTEWATER TREATMENT SYSTEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 80.0 ACRES, MORE OR LESS” (Conditional Use No. 1570) filed on behalf of Mountaire Farms of Delaware, Inc. (Colony Tract). The Proposed Ordinance will be advertised for Public Hearing.**
- Introduction of Proposed Ordinance**     **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.67 ACRES, MORE OR LESS” (Change of Zone No. 1556) filed on behalf of Douglas W. Brockway. The Proposed Ordinance will be advertised for Public Hearing.**

Draft Ordinance Relating to Personnel	Mr. Griffin discussed the draft ordinance entitled “AN ORDINANCE AMENDING THE PERSONNEL ORDINANCE IN AND FOR SUSSEX COUNTY”. He stated that the purpose of the draft ordinance relates to the recent death of the Clerk of the Peace. The draft ordinance would amend Chapter 29, Article 1, of the Code of Sussex County, entitled “Unclassified Service” by adding the following section:
Draft Ordinance Relating to Personnel (continued)	<i>“The Chief Deputy or, if there is no Chief Deputy, the Deputy employed by each elected officer of the County, shall be possessed of all of the authority of their respective offices, and in the absence, disability, or death of the duly elected officer, the Chief Deputy, or, if there is no Chief Deputy, the Deputy employed by the elected officer, shall perform the duties of the office until any vacancy created by the absence, disability or death of the elected officer shall be filled as required by the Constitution or statutes of the State of Delaware.”</i>
Clerk of the Peace/ Appointment	<p>Mr. Griffin reported that the Governor is authorized to make an interim appointment to fill out the term of a deceased elected officer under Article III, Section 8 of the Constitution of 1897.</p> <p>Mr. Stickels noted that until the Governor acts on an interim appointment, the Office of the Clerk of the Peace cannot perform marriages. He noted that the purpose of the draft ordinance is to avoid this problem in the future.</p>
Introduction of Proposed Ordinance	Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE AMENDING THE PERSONNEL ORDINANCE IN AND FOR SUSSEX COUNTY”. The Proposed Ordinance will be advertised for Public Hearing.
Public Comments	Mr. Dan Kramer questioned Council as to why they could not have posted a Notice of Public Hearing on the draft ordinance relating to Personnel and held the Public Hearing on this date, since it was an emergency situation.
M 175 04 Recess	At 11:13 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Phillips, to recess until 1:00 p.m. Motion Adopted by Voice Vote.
Reconvene	Mr. Jones called Council back into session.
M 176 04 Amend Agenda/ Schedule of Public Hearings	<p>A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by changing the order of the Public Hearings, as follows:</p> <p>Conditional Use No. 1524 Conditional Use No. 1525 Conditional Use No. 1527 Conditional Use No. 1526</p>
	Motion Adopted: 4 Yea, 1 Absent.
	Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;



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

**Public  
Hearing  
(C/U  
No. 1524)  
Public  
Hearing  
(C/U  
No. 1524)  
(continued)**

**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 MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.52 ACRES, MORE OR LESS” (Conditional Use No. 1524) filed on behalf of Rehoboth Beach Associates, LLC.**

**The Planning and Zoning Commission conducted a public hearing on this application on March 4, 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.**

**An Exhibit Booklet was distributed by the Applicant. The same booklet was distributed to the Planning and Zoning Commission.**

**The County Council found that James Fuqua, Attorney, Darin Lochwood of Meridian Consulting Engineers, LLC, and Dev Sitaram of Karins and Associates were present on behalf of the application. They stated in their presentation that the application is for a 140 residential unit development comprised of 70 duplex buildings and recreational facilities (pool and pool house); that the density of the development will be 5.95 dwellings units per acre; that the site is located in a Community District according to the State Strategies Map; that under the 2003 County Comprehensive Plan, the site is located in an Environmentally Sensitive Development Zone; that Tidewater Utilities will be the water supplier; that the project will be served by County sewer and that the letter from the County Engineering Office indicates that the project exceeds the West Rehoboth Expansion Planning Study Area’s assumption of 4 EDUs per acre but that the proposed project will not cause additional collection lines to become deficient; that a Traffic Impact Study was performed and DelDOT’s recommendation was that certain signals and improvements are warranted in that area; that DelDOT is requesting and requiring the applicant to enter into an agreement with DelDOT regarding funding traffic improvements in the area; that the Office of State Planning Coordination has no objection to the Conditional Use as long as DelDOT’s requirements are met; that the project is basically an in-fill parcel in a very developed area; and that with the proposed road improvements, the level of service will improve.**

**Mr. Fuqua stated that the density of the proposed development is higher than normally requested; however, he stated that he believes, in this case, the density is appropriate due to the uses and densities of the surrounding area (Walmart, Sea Chase, Estates of Sea Chase).**

Mr. Lochwood noted that the site plan was slightly different than the one presented to the Planning and Zoning Commission. He pointed out that the revised site plan includes an increased area for the pool and pool house and the relocation of one unit.

**Public Hearing (continued)** There were no public comments and the Public Hearing was closed.  
Mr. Cole expressed concern that the project does not meet the objectives of the County's Zoning Code for AR zoning and that it exceeds the density assumption for the County's sewer district.

**M 177 04** A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer  
**Defer** action on Conditional Use No. 1524, filed on behalf of Rehoboth Beach  
**Action** Associates, LLC.  
**(C/U**

**No. 1524)** Motion Adopted: 4 Yea, 1 Absent.

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

**Public Hearing (C/U** A Public Hearing was held on the Proposed Ordinance entitled "AN  
**No. 1525)** ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN  
AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE  
STAND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING  
AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY,  
CONTAINING 22,500 SQUARE FEET, MORE OR LESS" (Conditional  
Use No. 1525) filed on behalf of Kay A. Wilkerson.

The Planning and Zoning Commission conducted a public hearing on this application on March 4, 2004 at which time they recommended that the application be approved with conditions.

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

Mr. Lank reported that a complaint was received regarding the activities on the site and for this reason, the applicant was required to file an application for conditional use.

The County Council found that Kay Wilkerson was present on behalf of her application. She stated that she has operated a produce stand on the site for nineteen years; that she would like to erect an unlighted sign; and that customers park in her driveway.

Public comments were heard. Victoria Leidy spoke in support of the application.

**The Public Hearing was closed.**

**M 178 04  
Adopt  
Ordinance  
No. 1668  
M 178 04  
Adopt  
Ordinance  
No. 1668  
(C/U  
No. 1525)  
(continued)**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1668 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE STAND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 22,500 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1525) filed on behalf of Kay A. Wilkerson, with the following conditions:**

- 1. One unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.**
- 2. Site plan review shall not be required since the use is already established.**

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

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

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

**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 BEAUTY SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32,250 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1527) filed on behalf of Victoria’s Hair Classics.**

**The Planning and Zoning Commission conducted a public hearing on this application on March 4, 2004 at which time they recommended that the application be approved with conditions.**

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

**The County Council found that Victoria Leidy was present on behalf of her application. She stated that she has been operating a home occupation, a one operator beauty salon; that business hours are from 9:00 a.m. to 5:00 p.m. Monday through Saturday with some evening appointments; that she wants to expand by leasing space to another hair stylist; and that she would like to erect a lighted sign.**

**The County Council found that one person was present in support of the application.**

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

**M 179 04  
Adopt  
Ordinance  
No. 1669  
M 179 04  
Adopt  
Ordinance  
No. 1669  
(C/U  
No. 1527)  
(continued)**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1669 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32,250 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1527) filed on behalf of Victoria’s Hair Classics, with the following conditions:**

- 1. Business hours shall be from 9:00 a.m. to 5:00 p.m. with some evening appointments. There shall be no Sunday hours.**
- 2. One lighted sign, not exceeding 32 square feet per side or facing, may be permitted.**

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

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

**Public  
Hearing  
(C/U  
No. 1526)**

**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 MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 38.23 ACRES, MORE OR LESS” (Conditional Use No. 1526) filed on behalf of Robino-Sanibel Village, LLC.**

**The Planning and Zoning Commission conducted a public hearing on this application on March 4, 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.**

**An Exhibit Booklet was distributed by the Applicant. The same booklet was distributed to the Planning and Zoning Commission.**

**The County Council found that Paul Robino, Applicant; James Fuqua, Attorney; Roger Gross of Merestone Consultants, Inc., and James McCulley IV of Environmental Consultants, Inc. were present on behalf of the application. They stated that the application is for 170 dwelling units of which 108 will be condominium units within six three-story buildings and 62 duplex units; that under the State Strategies Map, the site is located in a Development District, a growth area; that the site is surrounded by**

Public  
Hearing  
(C/U  
No. 1526)  
(continued)

commercial and medium density areas; that under the County's Comprehensive Plan, the site is located in an Environmentally Sensitive Developing Area, a growth area; that the site was a former borrow pit and solid waste site; that some Federal wetlands exist on the site and they will be undisturbed with the exception that debris will be removed; that the site will be improved considerably since they plan to clean up the site; that the clean-up will be coordinated through the Delaware Solid Waste Authority; that all upland forest will be preserved; that some of the units are 100 feet from the wetlands and some of the units are 50 feet from the wetlands; that there is some flexibility in moving some of the units farther away from the wetlands; that 71 percent of the site will remain as open space; that DelDOT does not want the development to have direct access to Route One; that they have an access agreement with the developers of the Village of Five Points and are working with Atlantic Concrete to establish a new combined entrance on Old Orchard Road; and that the Office of State Planning Coordination has voiced no objections.

There were no public comments in support of the application.

Mabel Granke of the Citizen's Coalition spoke in regards to environmental issues. She emphasized the location of the site in relation to the Great Marsh natural wetland and the Great Marsh State Resource Area and stated that lots must not be placed in forested wetlands and a 100 foot vegetated buffer is needed to mitigate the effects of stormwater run-off and water quality. She stated that if the application is approved, conditions should include the avoidance of construction activities in those areas containing wetlands or wetlands-associated hydric soils.

Joe Holzlander, a resident of Sand Hill Village, expressed his concerns about water going up Black Hawk Gut and flooding his property, and about traffic on Old Orchard Road.

Michael Tyler, President of the Citizen's Coalition, spoke in opposition to the application stating that the conditional use application is a misapplication of the conditional use ordinance; that the site is not located in a development zone as noted in the County Comprehensive Plan; that it is located within a low-density area and this project is not low density; that the site is located within an environmentally sensitive area; that additional impervious surface will only create more problems; that the cumulative effect of covering land will jeopardize natural resources; that this site could be developed in a conservation manner with more open space and a sustainable density; and that this application is not responsible land use.

The Public Hearing was closed.

Mr. Cole requested that a revised site plan be developed showing greater setbacks from the wetlands.

Mr. Cole also requested that the applicant submit a "cookie-cutter" site

**plan. Mr. Phillips disagreed with this request and it was the consensus of the County Council to let the applicant decide whether or not to submit such a plan.**

**M 180 04**      **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer**  
**Defer**           **action on Conditional Use No. 1526 filed on behalf of Robino – Sanibel**  
**Action**        **Village, LLC; to leave the record open until the close of business on March**  
**M 180 04**      **23rd to give the applicant time to submit a revised site plan; and, to leave**  
**Defer**           **the record open for an additional week thereafter, until the close of business**  
**Action**        **on March 30th, to permit the public to comment in writing on the revised**  
**(C/U**           **site plan submitted by the applicant.**

**No. 1526)**  
**(continued)**

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

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

**M 181 04**      **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to adjourn at**  
**Adjourn**       **2:40 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

**Robin A. Griffith**  
**County Clerk**