



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 30, 2004

Call to Order The regular meeting of the Sussex County Council was held Tuesday, March 30, 2004, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 202 04 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to amend the
Approve Agenda by deleting "11:25 Derek Sapp, Project Engineer, 1. Sussex County
Agenda Airport A. T-Hangars – Change Order No. 2", and to approve the Agenda,
as amended.

Motion Adopted: 5 Yea.

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

M 203 04 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the
Approve minutes of March 23, 2004.
Minutes

Motion Adopted: 5 Yea.

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

Corre- Mr. Griffin read the following correspondence:
spondence

JOHN PETTYJOHN AND FAMILY, ELLENDALE, DELAWARE.

RE: Letter in appreciation of renovations made to their home, which were made possible by the Sussex County Community Development and Housing Department.

**Old
Business
C/U
No. 1522
Old
Business
(continued)**

The County Council discussed Conditional Use No. 1522 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 18.33 ACRES, MORE OR LESS” which was filed on behalf of SSEW, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on February 12, 2004 at which time they deferred action. On March 11, 2004, the Commission recommended that the application be approved with eleven conditions.

The Sussex County Council held a Public Hearing on this application on March 9, 2004 at which time they deferred action.

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission’s findings and recommendations. The summary was admitted as part of the County Council’s record.

Mr. Stickels recommended that an additional condition be considered, as follows: “Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.”

**M 204 04
Adopt
Ordinance
No. 1671
(C/U
No. 1522)**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1671 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 18.33 ACRES, MORE OR LESS” (Conditional Use No. 1522) filed on behalf of SSEW, LLC, with the following conditions:

- 1. The maximum number of residential units shall not exceed 80 units.**
- 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s determination. In addition, the Applicant shall comply with all of the conditions set forth in DelDOT’s May 13, 2003 letter concerning the project.**
- 3. Recreational facilities, e.g., swimming pool, poolhouse, trails, picnic area, etc. shall be constructed and open to use simultaneously with the construction and occupancy of the residential units. The swimming pool, poolhouse, picnic area and playground shall be centrally located within the residential area of the project. It shall not be located along the entrance road as presented during the public hearing.**

4. The Applicant shall comply with the Remedial Action Plan approved by DNREC and any amendments to it. As represented by the Applicant, all debris that currently exists on the site shall be removed unless recycled on the site.
5. The development shall be served as part of the Sussex County West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 204 04
Adopt
Ordinance
No. 1671
(continued)

6. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations and approvals, including DNREC, the State Fire Marshal, and the Public Service Commission.
7. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
8. The interior street design shall be in accordance with or exceed Sussex County street design requirements.
9. There shall be sidewalks on both sides of the streets, and streetlighting. These shall be shown as part of the site plan review.
10. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off, or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. to 6:00 p.m.
12. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.

Motion Adopted: 5 Yea.

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

Land
Acquisition
Dagsboro-
Frankford
SSD

Mr. Stickels and Mr. Izzo, County Engineer, discussed the purchase of 15± acres of land owned by J. Caleb Eashum at a cost of \$14,000 per acre. The purchase of the land would provide for the expansion of the Dagsboro Frankford Sanitary Sewer District by accommodating additional capacity at the Piney Neck Wastewater Treatment Plant. It was noted that the property is located near the treatment plan, although it is not contiguous.

M 205 04
Approve
Land
Purchase/
Dagsboro-
Frankford
SSD

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the purchase of Parcel 233-6.00-118.00 totaling 15± acres, as documented by the contracts of sale executed by J. Caleb Eashum.

Motion Adopted: 5 Yea.

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

Wastewater Facilities Mr. Stickels discussed wastewater facilities to be constructed in various sewer districts.

M 206 04
Execute
Agree-
ments/
Lakes
at Old
Mill

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 318, that the Sussex County Council executes a Construction Administration and Construction Inspection Agreement between Sussex County Council and Hockessin Chase, L.P., for wastewater facilities to be constructed in Lakes at Old Mill, located in the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 207 04
Execute
Agree-
ments/
Courts
at Old
Mill

A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 319, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Hockessin Chase, L.P., for wastewater facilities to be constructed in Courts at Old Mill, located in the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 208 04
Execute
Agree-
ments/
The
Refuge at
Dirickson
Creek

A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 365, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bunting – Gray, LLC, for wastewater facilities to be constructed in The Refuge at Dirickson Creek, Phases II and III, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 209 04 A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the
Execute recommendation of the Sussex County Engineering Department, for Sussex
Agree- County Project No. 81-04, Agreement No. 337, that the Sussex County
ments Council execute a Construction Administration and Construction
M 209 04 Inspection Agreement between Sussex County Council and Mike
Execute Cummings and Donald Jester, for wastewater facilities to be constructed in
Agree- Savannah/Miken, located in the Bethany Beach Sanitary Sewer District.
ments/

**Savannah/
Miken
(continued)**

Motion Adopted: 5 Yea.

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

M 210 04 A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the
Execute recommendation of the Sussex County Engineering Department, for Sussex
Agree- County Project No. 81-04, Agreement No. 326, that the Sussex County
ments/ Council execute a Construction Administration and Construction
Sea Inspection Agreement between Sussex County Council and Pelican Bay
Esta II Group, Inc., for wastewater facilities to be constructed in Sea Esta II
Village Village, located in the Long Neck Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

**Adminis-
trator's
Report**

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

1. Office of State Planning Coordination

The Office of State Planning Coordination is in the process of updating the Strategies for State Policies and Spending document. State Planning Coordination staff will be conducting public workshops in Sussex County on April 7, 2004, at Woodbridge High School, Laws Street, Bridgeville, Delaware, starting at 5:00 p.m., and April 13, 2004, at the Rehoboth Beach Convention Center, Rehoboth Avenue, Rehoboth Beach, Delaware, starting at 6:30 p.m. The general public should attend these meetings. The final decision on Strategies for State Policies and Spending will affect the County's 2007 Land Use Plan.

2. Beneficial Acceptance

The Engineering Department gave Beneficial Acceptance on March 18, 2004, for The Tides, Sussex County Project No. 81-04, Agreement No. 303, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Included with this report is a fact sheet for the project.

South Coastal Planning Area/Amendment No. 24/SCADA System Improvements Project	Mr. Izzo, County Engineer, discussed an amendment to a contract with Whitman, Requardt and Associates (WR&A) for the SCADA System Improvements Project. Mr. Izzo reported that the contract amendment would allow the completion of Phase III of the SCADA Program. He noted that the program has been in place for approximately three years and due to the growth during that time, the software package needs to be upgraded. Mr. Izzo advised that approval of the contract amendment will permit WR&A to put together a bid package and specifications and allow the County Engineering Department to contract with its integrator (Tri-Jay Systems, Inc.) and upgrade the software package. Mr. Izzo reported that the amount of the contract amendment with WR&A is proposed to be \$9,818.00.
M 211 04 Execute Amendment No. 24/SCADA System Improvements Project	<p>A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the County Engineering Department, that the President of the Sussex County Council is authorized to execute Amendment No. 24 to its contract with Whitman, Requardt and Associates, LLP, which references design and bid award services for the Phase III SCADA System Improvements.</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
Agricultural Lease/Inland Bays Regional Wastewater Facility/Bid Award	Mr. Izzo, County Engineer, reported that bids were received by the Engineering Department for an agricultural lease for the Inland Bays Regional Wastewater Facility. The work would consist of farming agricultural fields with 568± acres of existing crop land, of which 200 acres are currently under spray irrigation. An information meeting was held to allow interested parties an opportunity to obtain information about the project. Mr. Izzo reported that, although ten farmers attended the information meeting, only one bid was received. The bid was received from Roland Hill of Deerfield Farm, Inc. at a cost of \$7,500 annually (approximately \$13.00 per acre). The five-year lease can be renewed at the end of the five years by mutual agreement.
M 212 04 Award Bid/	A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that the bid for “Agricultural Lease at the Inland Bays Regional Wastewater

Agricultural Lease/ Inland Bays Regional Wastewater Facility	Facility” be awarded to Deerfield Farm, Inc. of Lewes, Delaware at the bid amount of \$7,500.00 per year.
	Motion Adopted: 5 Yea.
	Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
Cedar Neck Road Collection and Conveyance Contract	Mr. Izzo, County Engineer, discussed a balancing change order for the Cedar Neck Road Collection and Conveyance Contract. Mr. Izzo advised that this contract was for the main trunk line on Cedar Neck Road. The balancing change order is a credit change order in the amount of \$113,071.30. Mr. Izzo noted that there is a one-year warranty on the contract.
M 213 04 Approve Change Order/ Cedar Neck Road Collection and Conveyance Contract	A Motion was made by Mr. Jones, seconded by Mr. Rogers, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, L.L.P. and the County Engineering Department that the balancing change order for Sussex County Project No. 99-12 A, Cedar Neck Road Collection and Conveyance” with American Paving Corporation be approved in the amount of \$113,071.30 which decreases the final contract total to \$1,574,485.85.
	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/ Ellis Point and The Greens Expansion/ Holts Landing SSD	A Public Hearing was held to consider extending the Holts Landing Sanitary Sewer District (HLSSD) to include Ellis Point and The Green, lying contiguous to the HLSSD, situated northwest of the Town of Millville.
	Mr. Archut, Assistant County Engineer, stated that he appeared before Council on February 10, 2004 regarding the proposed expansion. At that meeting it was reported that Ellis Point contacted The Greens about routing their wastewater connection through their subdivision. Ellis Point is a new subdivision that will consist of about 56 units. The Greens is a fully developed subdivision with 94 lots. In return for this easement, Ellis Point would build and pay for pipelines that pass through The Greens. Ellis Point has also been asked to build the remaining pipelines in The Greens so all property owners would have access to sewer service. The cost of these pipelines would be financed through a loan from the County and repaid by all property owners through a front foot assessment charge. All pipelines would be designed and constructed to the County’s specifications and the County would be responsible for maintenance.
	Mr. Archut reported that a Memorandum of Understanding has been executed between the Sussex County Council, the developers of Ellis Point,

and the Homeowners Association of The Greens to allow the developers of Ellis Point to install the gravity lines within The Greens.

Mr. Archut reported that the tentative schedule for construction of the wastewater facilities is Summer 2004 to Fall 2004, contingent on plan and permit approvals and contractor scheduling. Mr. Archut distributed a summary sheet providing an overview of the project, project costs and user cost estimates.

Public
Hearing/
Ellis
Point
and The
Greens
Expansion/
Holts
Landing
SSD
(continued)

Public comments were heard.

Ed Schimler, Jr. a property owner in The Greens, stated that he was speaking in opposition to the proposed expansion in regards only to the cost allocation; that the standard cost recovery method is unfair to some individual property owners; that some lots have considerably more front footage than others, i.e. those on a cul-de-sac; that The Greens is a private community with a Homeowners Association and should be recognized as one entity; that the assessment calculation on front footage of individual properties bordering on the roadways is unfair, inequitable and not a viable basis of assessment; and that the Homeowners Association had no authority to direct the County engineers to prepare pro-forma billing rates based on the County's standard assessment practice. Mr. Schimler provided alternative assessment calculations, which would result in everyone paying the same costs.

Mr. Stickels responded that the billing method is the same in all of the County's sewer districts and that the method has been approved by Black & Veatch, DNREC, EPA, and bond rating companies. In addition, the County's billing method has withstood challenges in Court.

David Rutt, Attorney for The Greens Homeowners Association, was present and reported that at the November 15, 2003 meeting of the Homeowners Association, 76 homeowners were represented personally or by proxy. He reported that two notices of the meeting were sent out and were sent in a timely manner. Mr. Rutt noted that several septic systems in the subdivision have failed and some have been replaced with mound systems. Mr. Rutt stated that everyone had the opportunity to voice their opinion at the meeting. On a Motion of one of the homeowners, the discussion was closed and it was put to a vote whether to accept the County's proposal. Mr. Rutt reported that a majority of the homeowners agreed to accept the plan of the County and agreed to spread the cost out over the entire subdivision, in compliance with the method of repayment as determined by County Ordinance. Mr. Rutt stated that the approving vote was to direct the Board of Directors to undertake all measures necessary to effectuate the inclusion of the subdivision into the sewer district and to enter into the agreements with the County and Caldera Properties.

Ken Greaves spoke in support of the expansion and questioned when the construction of the project would be completed.

Frank Kee of Caldera Properties, developer of Ellis Point, stated that the developer has signed a binding document, which states that the developer will finish the project within a six-month time frame.

Mr. Archut clarified that the Memorandum of Understanding states that the developer will be done within 180 days of receiving the DNREC construction permit.

**Public
Hearing/
Ellis
Point
and The
Greens
Expansion/
Holts
Landing
SSD
(continued)**

Sandra deChurch, President of the Board of Directors of The Greens Homeowners Association, reported on the results of the vote taken on November 15, 2003 regarding the request for a deed of easement for construction to provide public sewer service to The Greens: 57 in favor, 17 in opposition, 2 abstentions (2 proxies submitted to establish a quorum only). Mrs. deChurch submitted copies of the ballots and the sign-in sheets. Mrs. deChurch stated that The Greens looked forward to being annexed as part of the Ellis Point project and the Holts Landing Sanitary Sewer District.

Mr. Archut submitted for the record, a letter with attachments from Edwin Schimler dated March 24, 2004.

The Public Hearing was closed.

**M 214 04
Adopt
Resolution
No.
R 015 04**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Resolution No. R 015 04 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE HOLTS LANDING SANITARY SEWER DISTRICT TO ENCOMPASS THE ELLIS POINT AND THE GREENS SUBDIVISIONS, LYING CONTIGUOUS TO THE HOLTS LANDING SANITARY SEWER DISTRICT, SITUATE SOUTH OF THE INDIAN RIVER BAY AND WEST OF THE TOWN OF MILLVILLE AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yea.

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

Mr. Dukes left the meeting and Mr. Jones presided.

**Public
Hearing/
Proposed
Ordinance
Relating
to
Transfer
Tax
Exemptions**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 103 OF THE CODE OF SUSSEX COUNTY TO CONFORM TRANSFER TAX EXEMPTIONS TO STATE LAW”. Mr. Baker stated that the Ordinance would conform the County Realty Transfer Tax law to the Delaware Realty Transfer Tax law, as amended by the General Assembly, so as to exempt (1) transfers to nonprofit conservation organizations when the property is purchased for open space preservation purposes and (2) transfers to and from organizations exempt from tax under §501(c)(3) of the federal Internal

Revenue Code when the purpose of said conveyance is to provide housing to low and moderate income households by rehabilitating residential properties and reselling said properties without profit. The Ordinance would be effective immediately and apply retroactively to December 1, 2003 upon its adoption.

Public comments were heard.

Public
Hearing/
Proposed
Ordinance
Relating
to
Transfer
Tax
Exemptions
(continued)

Dan Kramer commented on the Proposed Ordinance's reference to low and moderate income households and questioned how it will be determined who can qualify. (Mr. Stickels responded that there are guidelines established by the federal government.) Mr. Kramer also questioned who would be exempt from paying transfer taxes and whether or not the County would also be exempt.

Concern was expressed about the avoidance of developers paying transfer taxes on large, expensive tracts of land.

The Public Hearing was closed.

M 215 04
Adopt
Ordinance
No. 1672

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt Ordinance No. 1672 entitled "AN ORDINANCE TO AMEND CHAPTER 103 OF THE CODE OF SUSSEX COUNTY TO CONFORM TRANSFER TAX EXEMPTIONS TO STATE LAW".

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

Dirickson
Creek
Sewer
Study/
Fenwick
Island
SSD

Mr. Archut, Assistant County Engineer, presented a proposal for Whitman, Requardt and Associates (WR&A) to do a planning study (Dirickson Creek Sewer Study) for the Route 54 corridor in the proposed expansion of the Fenwick Island Sanitary Sewer District. This would be the first step in a process to upgrade the Route 54 Interceptor. Mr. Archut stated that in 1990, the original SCAPS Report identified that there were going to be deficiencies in the pipeline. The pipeline was not built for the ultimate build-out of the system and at some point, it would have to be upgraded. In 1992, the system connection charge was increased in order to accumulate additional funding to pay for necessary improvements. Mr. Archut advised that the purpose of the planning study is to examine the flows entering the existing and proposed infrastructure along SR54 and in Swan Cove to determine the facilities required to maximize the use of this infrastructure. Mr. Archut reported that the study would consider trends, open space, and development. Mr. Archut reported that the estimated cost of the study is \$51,690.00.

M 216 04

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon

- Execute Contract Amendment/Dirickson Creek Sewer Study M 216 04 (continued)** the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorizes its President to execute Amendment No. 25 to its contract with Whitman, Requardt and Associates, LLP, to perform the Dirickson Creek Sewer Study at a cost of \$51,690.00.
- 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
- Request to Apply for Grant** Mr. Archut stated that the Engineering Department believes that the Dirickson Creek Sewer Study is eligible for a Long Range Wastewater Facilities Planning Grant and requested permission to apply for the grant.
- M 217 04 Adopt Resolution No. R 016 04** A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Resolution No. R 016 04 entitled “A RESOLUTION TO SUBMIT A LONG-RANGE WASTEWATER FACILITIES PLANNING GRANT TO THE WASTEWATER FACILITIES ADVISORY COUNCIL FOR MATCHING FUNDS TO FINANCE A PLANNING STUDY FOR THE FENWICK ISLAND SANITARY SEWER DISTRICT STATE ROUTE 54 TRANSMISSION SYSTEM UPGRADE”.
- 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
- Grant Requests** Mr. Stickels presented two grant requests for the County Council’s consideration.
- M 218 04 Youth Activity Grant** A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to the Delaware Heritage Commission for the Hands On Delaware Heritage Camp.
- 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 219 04 Councilmanic Grant** A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 (\$100.00 from each Councilmanic Account) to the Delaware State Police for the 1st Annual Ride for Domestic Violence Awareness.
- 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

Legislation Under additional business, Dan Kramer commented on House Bill No. 340 and House Bill No. 341.

M 220 04 At 12:20 p.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to
Recess recess until 1:00 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Jones called Council back into session at 1:10 p.m.

Public A Public Hearing was held on the Proposed Ordinance entitled “AN
Hearing ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
(C/U AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO-
No. 1529) MOTIVE REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF
LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX
COUNTY, CONTAINING 1.54 ACRES, MORE OR LESS” (Conditional
Use No. 1529) filed on behalf of Bart and Brenda Donaway.

The Planning and Zoning Commission held a Public Hearing on this application on March 11, 2004 at which time they deferred action. On March 25, 2004 the Commission deferred action again.

Mr. Abbott, Assistant 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 Bart Donaway was present on behalf of his application and stated that he and his wife are in the process of constructing a home on the site; that a shop/garage has already been constructed; that he is doing the work himself; that the equipment that is currently stored outside will be moved inside the garage once the building materials for the house have been moved out; that he normally works in the garage with the doors closed; that the garage is well insulated and therefore noise should not be a problem; that he intends to clean up the property, especially since it will be his place of residence; and that he does not mind a restriction being placed on the hours of operation.

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

M 221 04 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action
Defer on Conditional Use No. 1529 filed on behalf of Bart and Brenda Donaway.
Action

(C/U Motion Adopted: 4 Yea, 1 Absent.
No. 1529)

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

Mr. Dukes, Absent

Public Hearing (C/U No. 1559) 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 EXPANSION OF OUTPATIENT MEDICAL CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 33.83 ACRES, MORE OR LESS” (Conditional Use No. 1559) filed on behalf of Beebe Medical Center.

Public Hearing (C/U No. 1559) (continued) The Planning and Zoning Commission held a Public Hearing on this application on March 11, 2004 at which time they recommended that the application be approved with conditions.

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and their findings and recommendations. The summary was admitted as part of the County Council’s record.

The County Council found that James Monihan, Vice President of Beebe Medical Center, was present and stated that there is an urgent need for the expansion of the existing outpatient medical center to add a Radiation Oncology Center; that the current linear accelerator equipment located at the hospital is operating at full capacity and the hospital proposes to install a second accelerator at this location; that the use will primarily be an outpatient cancer treatment center; and that the expanded health care facilities will enhance the delivery of medical treatment and service to the public.

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

M 222 04 Adopt Ordinance No. 1673 (C/U No. 1559) A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Ordinance No. 1673 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXPANSION OF OUTPATIENT MEDICAL CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 33.83 ACRES, MORE OR LESS” (Conditional Use No. 1559) filed on behalf of Beebe Medical Center, with the following conditions:

1. The uses permitted are medical offices to support an outpatient facility.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
3. A 30-foot vegetative buffer strip shall be approved by the Planning and Zoning Commission, after recommendation from the State Forester, on the common boundary line of this property and the Hitchens Subdivision.
4. Any expansion of the use shall require additional conditional use applications.

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. 1560)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR FUEL STORAGE AND LOADING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.43 ACRES, MORE OR LESS” (Conditional Use No. 1560) filed on behalf of NMB, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on March 11, 2004 at which time they recommended that the application be approved with conditions.

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and their findings and recommendations. The summary was admitted as part of the County Council’s record.

The County Council found that Brian Pepper was present on behalf of the application and stated that they propose a bulk fuel storage and loading facility; that the proposed use will allow them to meet the public demand for additional heating and diesel fuel; that the use is compatible to other commercial and industrial uses in the area; and that they plan to relocate their present facility in Georgetown due to traffic and the difficulty in access to and from the existing site by bulk fuel trucks.

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

**M 223 04
Adopt
Ordinance
No. 1674
(C/U
No. 1560)**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to Adopt Ordinance No. 1674 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR FUEL STORAGE AND LOADING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.43 ACRES, MORE OR LESS” (Conditional Use No. 1560) filed on behalf of NMB, LLC, with the following conditions:

- 1. The use shall be limited to the storage of fuel oils and diesel fuel. There shall be no gasoline or propane storage on the site.**
- 2. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.**

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. 1561)**

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 PROPANE TANKS (EXPANSION OF CONDITIONAL USE NO. 1194) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.97 ACRES, MORE OR LESS OF A 16.56 ACRE TRACT” (Conditional Use No. 1561) filed on behalf of Pep-Up, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on March 11, 2004 at which time they recommended that the application be approved with conditions.

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and their findings and recommendations. The summary was admitted as part of the County Council’s record.

The County Council found that Brian Pepper was present on behalf of the application and stated that they propose the installation of six (6) bulk propane storage tanks; that there are six (6) existing propane tanks on the site; that occasionally, there is a limited supply of propane available; that they are proposing to expand their capacity to try to meet the demand for fuel during the winter months; and that the Fire Marshal’s Office will require a sprinkler system.

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

**M 224 04
Adopt
Ordinance
No. 1675
(C/U
No. 1561)**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1675 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROPANE TANKS (EXPANSION OF CONDITIONAL USE NO. 1194) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.97 ACRES, MORE OR LESS OF A 16.56 ACRE TRACT” (Conditional Use No. 1561) filed on behalf of Pep-Up, Inc., with the following conditions:

- 1. The site plan shall be subject to review and approval by the Planning and Zoning Commission with all appropriate agency approvals and/or permits.**
- 2. Fencing around the tank farm shall be subject to review and approval**

by the Office of the State Fire Marshal.

- 3. Security lighting shall be provided if required by any agency.**
- 4. Tanks shall be located a minimum of 50-feet from the property line at the railroad.**

Motion Adopted: 4 Yea, 1 Absent.

**M 224 04
(continued)**

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

**M 225 04
Adjourn**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to adjourn at 1:47 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Robin A. Griffith
County Clerk**