



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

Mr. Dukes, Yea

**House of
Representatives
Tribute/
David
Baker
M 228 04
Adopt
Proclamation**

Mr. Stickels announced that David Baker, Finance Director, and Sussex County's Department of Finance received a Tribute from the State of Delaware House of Representatives "on the occasion of being recognized for their work in governmental accounting and awarded the Certificate of Achievement by the Government Finance Officers Association of the United States and Canada".

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt the Proclamation entitled "PROCLAIMING APRIL 25 THROUGH MAY 2, 2004 AS SOIL AND WATER STEWARDSHIP WEEK".

Motion Adopted: 5 Yea.

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

**Soil and
Water
Stewardship
Week**

Mr. Vanderwende, Ms. Absher, Mr. Breeding, and Ms. Bradley were in attendance representing the Sussex Conservation District. Mr. Vanderwende reported that the theme for this year's Soil and Water Stewardship Week is "The Living Soil". Mr. Vanderwende commented that the theme "The Living Soil" reminds us of the important role conservation plays in the health of our soil. Healthy soil supports a healthy environment and a healthy environment supports healthy life. Mr. Vanderwende thanked Council for its continued support.

**EMS
Paramedic
Student
Program**

Mr. Luedtke, Director of Emergency Medical Services, discussed the Sussex County EMS Paramedic Student Program, which was previously approved by the County Council. The Program enables the County to employ and sponsor three students in the Delaware Technical & Community College Paramedic Training Program. The selected students complete the course of study and become certified as Nationally Registered EMT Paramedics and thereafter agree to remain employed by Sussex County paramedics for a period of three years.

Mr. Luedtke introduced the three people selected as the first SCEMS-sponsored students: Gabriella Adams, John Wright, and Paula Chaffinch.

**Waste-
water
Facilities**

Mr. Stickels discussed wastewater facilities to be constructed in the West Rehoboth Sanitary Sewer District and the Fenwick Island Sanitary Sewer District.

**M 229 04
Execute
Agreements/
Paynter's
Mill**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 237-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Ocean Atlantic Associates V, L.L.C., for wastewater facilities to be constructed in Paynter's

Mill – Phases V, VI, VII and VIII. located in the West Rehoboth Expansion of the Dewey 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 230 04
Execute
Agreements/
Bayview
Landing**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 331, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bayview Ventures I, Inc., for wastewater facilities to be constructed in Bayview Landing, Phase I, 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**

**Adminis-
trator's
Report**

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

1. Holiday Schedule

Sussex County government offices will be closed Friday, April 9, 2004, to allow employees to observe the Good Friday holiday. Offices will reopen on Monday, April 12, 2004, at 8:30 a.m.

There will not be a Council meeting on Tuesday, April 13, 2004. The next regularly scheduled County Council meeting will be Tuesday, April 20, 2004, at 6:30 p.m. in the Council Chambers, County Administrative Office Building on The Circle in Georgetown.

2. Kerns vs. Dukes, et al.

I am pleased to inform the Council that Vice Chancellor Donald F. Parsons, Court of Chancery, issued a dismissal on Friday, April 2, 2004, in the Kerns case because it was not timely filed.

The Kerns case began in March 1996 when the Plaintiffs filed a suit in the U.S. District Court challenging the formation of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District (WRE). Since 1996 this case also has been heard by the U.S. Third Circuit Court of Appeals, after the dismissal of the case by the U.S. District Court, and parts of the case have been argued before the Delaware Supreme Court on legal issues. This, the last of the Kerns cases, was filed in Chancery in 1999 as a continuation of the earlier

case after the Third Circuit affirmed the dismissal of the federal case.

The Plaintiffs had claimed that they were entitled to a referendum on the formation of the WRE and that the failure of the County to have an election resulted in the nullification of the WRE and violated the Plaintiffs' civil rights.

Adminis-
trator's
Report
(continued)

The WRE was formed by the County Council's Resolution in March 1990 and this suit and the challenges to the formation of the district were not filed until after the construction of the sewer district was complete, the treatment plant was open and operating, and sewer assessments and service charges were being charged by the County.

Among other things, Vice Chancellor Parsons held that the case was barred by the statute of limitations and by the equitable doctrine of laches. "Laches" means an unreasonable delay that results in disadvantage, prejudice, or injustice to another party. Here the Vice Chancellor found that "...the Plaintiffs' unreasonable delay in bringing suit prejudiced the County. The County expended significant sums of money from the public treasury between the adoption of the WRE Resolution in 1990 and the filing of Plaintiffs' suit in 1996."

At the time of the filing of the first suit, the County had constructed the Wolfe Neck Treatment Plant, 43 pump stations, installed 13.3 miles of force mains, 104.4 miles of gravity sewer, and had spent \$49.7 million on the project. Since then the remaining phases of the district have been constructed.

I would like to publicly thank Dennis L. Schrader of the law firm Wilson, Halbrook & Bayard for the time and energy he invested in defending the County Council in this lawsuit. I would also to thank Michael A. Izzo, County Engineer, and his staff who worked many extra hours in preparing the necessary defense.

3. Oak Orchard Sanitary Sewer District Bid Openings

The Engineering Department opened bids on April 1, 2004, for Contract 99-19B and Contract 99-19C for the Oak Orchard Sanitary Sewer District. The following bids were received for Contract 99-19B, Pump Stations 188 and 189:

<u>Contractor</u>	<u>Base Bid</u>	<u>Alternate Bid</u>	<u>Start Date</u>
Bearing Construction Sudlersville, MD	\$3,192,558.10	\$3,095,257.06	September 1, 2004
Edward McGinn Contractors, Inc.	\$3,467,785.00	\$3,467,785.00	July 12, 2004

West Chester, PA

Teal Construction, Inc. \$3,668,000.00 \$3,607,495.00 October 15, 2004
Dover, DE

Engineer's Estimate \$3,097,000.00 \$2,942,150.00 N/A

**Adminis-
trator's
Report
(continued)**

Bids received for Contract 99-19C, Riverdale Collection and Conveyance, were as follows:

<u>Contractor</u>	<u>Base Bid</u>	<u>Alternate Bid</u>	<u>Start Date</u>
George & Lynch New Castle, DE	\$1,049,700.00	\$ 991,700.00	September 7, 2004
Bearing Construction Sudlersville, MD	\$1,085,558.00	\$1,010,887.00	May 1, 2004
MGK Industries, Inc. Pottstown, PA	\$1,078,090.00	\$1,022,559.00	October 31, 2004
Engineer's Estimate	\$ 790,000.00	\$ 760,000.00	N/A

The Engineering Department will review the bids and report to Council within 30 days of their opening.

**Draft
Ordinance/
Front
Foot
Assessment
Charge/
Cedar
Neck
Expansion
of the
Bethany
Beach
Sanitary
Sewer
District**

Mr. Baker discussed a draft ordinance establishing annual assessment rates for property not previously assessed a front foot assessment charge within the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District. In May 1997, front foot assessment rates were estimated to be \$7.77 per front foot. In June 1997, the County Council approved the boundary extension for Cedar Neck. In August 2002, rates were estimated to be \$6.99 per front foot. The project is almost complete and it is believed that on April 28th, residents will be able to connect to the system. Mr. Baker stated that today, the County is proposing an annual front foot assessment rate of \$4.14 per front foot, a 47 percent decrease from the May 1997 rates. The primary reasons for the decrease are due to the efforts of the Engineering Department to divide the work into smaller contracts for bidding and to stagger the work, and due to the funding of a major pump station by developers. In addition, favorable financing has been received for the project; a \$3.6 million State grant and a loan from Rural Development. In addition, the County has allocated grant funding for the project.

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING ANNUAL ASSESSMENT RATES FOR PROPERTY PREVIOUSLY ASSESSED A FRONT FOOT ASSESSMENT CHARGE WITHIN THE CEDAR NECK EXPANSION OF THE BETHANY BEACH SANITARY SEWER DISTRICT". The Public Hearing will be scheduled for April 27, 2004.

**Public
Hearing/
Proposed
Ordinance
Relating
to the
Personnel
Ordinance
Public
Hearing
(continued)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE AMENDING THE PERSONNEL ORDINANCE IN AND FOR SUSSEX COUNTY”.

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, Section 29-3.B. of the Code of Sussex County, entitled “Unclassified Service” by adding the following section:

“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.”

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. The Proposed Ordinance would permit the Chief Deputy to carry out the responsibilities of the office until the Governor makes the appointment. This is currently permitted in Kent and New Castle Counties in accordance with State law.

Public comments were heard. Mr. Kramer questioned what would happen if the Governor’s appointment dies. There were no further public comments and the Public Hearing was closed.

**M 231 04
Adopt
Ordinance
No. 1676**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1676 entitled “AN ORDINANCE AMENDING THE PERSONNEL ORDINANCE IN AND FOR SUSSEX COUNTY”.

Motion Adopted: 5 Yea.

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

**Public
Hearing/
Proposed
Ordinance/
Allowing
Residential,
Business,
Commercial
or
Industrial
Uses as
Conditional**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ALLOW RESIDENTIAL, BUSINESS, COMMERCIAL OR INDUSTRIAL USES AS CONDITIONAL USES IN THE AGRICULTURAL RESIDENTIAL AND GENERAL RESIDENTIAL ZONING DISTRICTS”.

This Ordinance establishes a provision whereby an applicant can apply for a Conditional Use for residential, business, commercial or industrial uses that are not specifically listed as a permitted use or Conditional Use.

The Planning and Zoning Commission held a Public Hearing on the

Uses in the AR and GR Zoning Districts	<p>Proposed Ordinance on March 25, 2004. The Commission recommended that the Proposed Ordinance be approved.</p> <p>Mr. Lank, Director of Planning and Zoning, noted that several months ago, a Public Hearing was held on a Proposed Ordinance on Ag-Related Industries and upon the adoption of that Ordinance, wording was taken out that is now being proposed to be put back in, as follows:</p>
Public Hearing (continued)	<p>“Residential, business, commercial, or industrial uses when the purpose of this chapter are more fully met by issuing a conditional use permit.”</p> <p>Public comments were heard. Mr. Kramer stated that all places should be allowed to have 12 units to the acre.</p> <p>There were no further public comments and the Public Hearing was closed.</p>
M 232 04 Adopt Ordinance No. 1677	<p>A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1677 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ALLOW RESIDENTIAL, BUSINESS, COMMERCIAL OR INDUSTRIAL USES AS CONDITIONAL USES IN THE AGRICULTURAL RESIDENTIAL AND GENERAL RESIDENTIAL ZONING DISTRICTS”.</p> <p>Motion Adopted: 4 Yea, 1 Nay.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Nay; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
Public Hearing/ Proposed Ordinance Relating to the Technical Advisory Committee	<p>A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ALLOW FOR A TECHNICAL ADVISORY COMMITTEE REVIEW OF RPC DEVELOPMENTS, TO DEFINE A TECHNICAL ADVISORY COMMITTEE AND TO ALLOW FOR A SCHEDULE OF CONSTRUCTION FOR RPC DEVELOPMENTS”.</p> <p>This amendment defines the Technical Advisory Committee and changes the processes of approving RPCs by allowing for review by the TAC and for requiring a schedule for construction.</p> <p>Mr. Kautz, the County’s Land Use Planner, stated that the Ordinance amendment complies with the 2002 Comprehensive Plan Update.</p> <p>The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on March 25, 2004. The Commission recommended that the Proposed Ordinance be approved.</p> <p>There were no public comments and the Public Hearing was closed.</p>

M 233 04
Adopt
Ordinance
No. 1678

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1678 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ALLOW FOR A TECHNICAL ADVISORY COMMITTEE REVIEW OF RPC DEVELOPMENTS, TO DEFINE A TECHNICAL ADVISORY COMMITTEE AND TO ALLOW FOR A SCHEDULE OF CONSTRUCTION FOR RPC DEVELOPMENTS”.

M 233 04
(continued)

Motion Adopted: 5 Yea.

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

Sussex
County
Airport/
T-Hangar
Project

Mr. Sapp, Project Engineer, discussed Change Order No. 2 to Sussex County Airport Project entitled “T-Hangar Extension”, which will add four t-hangars to the existing six unit t-hangar structure. The Change Order, in the amount of \$20,104.07 is due to an increase in materials and labor costs since the project was bid in 2002. Mr. Sapp reported that the change order is due to the rising cost of steel and the length of time since the job was priced. In addition, a rise in Workman’s Compensation and more stringent OSHA requirements have resulted in an increase in the steel erection price.

M 234 04
Approve
Change
Order/
T-Hangar
Project

A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Change Order No. 2 for Project Number 99-22, Sussex County Airport T-Hangar Extension, to increase the contract time by 194 days, for a total of 669 days, and to increase the original contract amount by \$20,104.07, from \$263,726.00 to \$283,830.07.

Motion Adopted: 5 Yea.

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

Old
Business/
C/Z
No. 1528

The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 95.2 ACRES, MORE OR LESS” (Change of Zone No. 1528) filed on behalf of Cadbury Senior Services, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on December 18, 2003 at which time they deferred action. On January 22, 2004 the Commission recommended that the application be

approved with 13 conditions.

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

**Old
Business/
C/Z
No. 1528
(continued)**

The County Council held a Public Hearing on the application on January 13, 2004 at which time they deferred action and left the record open for written comments from DNREC on the report submitted by Duffield Associates and for written public comments in response to the report.

It was noted that a response was received from DNREC relating to the Duffield Report and that the County Council members were provided with a copy of the report.

Mr. Stickels referred to the findings of the Planning and Zoning Commission and recommended that the last sentence in paragraph 4 (E) of the findings be amended as follows:

Strike "Mr. Johnson does not believe that development will impair the City of Lewes water supply by virtue of its stormwater management design." and replace with "Testimony provided by the applicant indicated that development will not impair the City of Lewes' water supply by virtue of its stormwater management design and the fact that the site is outside and downgrade from the City of Lewes' well head protection area."

Mr. Stickels stated that this would clarify where Commissioner Johnson received his information.

Councilmembers discussed Condition No. 8 recommended by the Commission that "Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements." For the purpose of satisfying questions raised by DNREC and the City of Lewes on recharge issues, the County Council recommended that the condition be amended, as follows: "Stormwater management and erosion and sediment control shall be constructed in accordance with DNREC's Groundwater Protection Branch, Water Supply Section, and other applicable State and County requirements."

Councilmembers discussed Condition No. 13 recommended by the Commission that "The Developer shall construct a physical barrier, whether fencing or natural, to prevent foot or pedestrian traffic onto the Zwaanendael Farm property." It was noted that, during the Public Hearing, it was requested that fencing be erected to prevent pedestrian traffic. It was the consensus of the Council that the condition should state that "The Developer shall construct fencing to prevent foot or pedestrian traffic onto the Zwaanendael Farm property."

M 235 04
Adopt
Ordinance
No. 1679
(C/Z
No. 1528)

M 235 04
(continued)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1679 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 95.2 ACRES, MORE OR LESS” (Change of Zone No. 1528) filed on behalf of Cadbury Senior Services, Inc., with the correction to Paragraph 4(E) of the Planning and Zoning Commission’s findings and with the following conditions:

- 1. The maximum number of units shall not exceed the following as shown on the applicant’s site plan.**
Parcel A (Retirement Community):
48 single and duplex units
84 apartment units
Health care center with 80 assisted living and skilled nursing rooms
Parcel B (Residential):
80 single family lots
105 townhouse and duplex units
- 2. Site plan review shall be required for each phase of development.**
- 3. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Street design shall include curbs, sidewalks on both sides of the street, and street lighting. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscaping design on the project.**
- 4. All entrance, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT in its letter of July 1, 2003, or in accordance with any further modification required by DelDOT.**
- 5. Recreational facilities, including tennis courts, swimming pool, community buildings, pathways, and trails shall be constructed and open to use by the residents within two (2) years of the issuance of the first building permit.**
- 6. The RPC shall be served by an existing or an extended Sussex County sanitary sewer district.**
- 7. The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 8. Stormwater management and erosion control shall be constructed in accordance with DNREC’s Groundwater Protection Branch, Water Supply Section, and other applicable State and County requirements.**
- 9. The applicant shall cause to be formed a homeowners association to be responsible for the maintenance of the streets, roads, buffers, stormwater management facilities, and other common areas in the residential section of the development (Parcel B).**
- 10. Road naming and addressing shall be subject to the approval of the**

Sussex County Mapping and Addressing Department.

- 11. Construction, site work, grading and deliveries of construction materials, etc. to the property shall only occur during the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday. After the first Certificate of Occupancy is issued, Saturday hours shall be limited to the hours between 7:00 a.m. and 12:00 noon.**

**M 235 04
(continued)**

- 12. A berm shall be installed along the Zwaanendael Farm boundary to ensure that run-off is either eliminated or limited to pre-development conditions. The berm shall also be designed to prevent any negative impact upon agricultural uses on the Zwaanendael Farm property.**
- 13. The developer shall construct fencing to prevent foot or pedestrian traffic onto the Zwaanendael Farm property.**

Motion Adopted: 5 Yea.

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

Recess At 11:50 a.m., Mr. Dukes declared a recess.

Reconvene Mr. Dukes called Council back into session at 11:57 a.m.

**Old
Business/
C/Z
No. 1519
and
C/U
No. 1510**

The County Council discussed the Proposed Ordinances 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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.48 ACRES, MORE OR LESS (Change of Zone No. 1519) filed on behalf of Elmer G. Fannin and the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.48 ACRES, MORE OR LESS” (Conditional Use No. 1510) filed on behalf of Elmer G. Fannin.

The Planning and Zoning Commission held a Public Hearing on these applications on October 9, 2003 at which time they deferred action. On November 6, 2003 the Commission recommended that the applications be denied.

Mr. Lank, Director of Planning and Zoning, referred to the summary of the Commission’s Public Hearing and their findings and recommendations, which were made a part of the County Council’s record.

The County Council held a Public Hearing on these applications on October 28, 2003 at which time action was deferred.

M 236 04
Adopt
Ordinance
No. 1680

M 236 04
(continued)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1680 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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.48 ACRES, MORE OR LESS (Change of Zone No. 1519) filed on behalf of Elmer G. Fannin.

Motion Adopted: 5 Yea.

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

Old
Business/
C/U
No. 1510
(continued)

Mr. Lank read fifteen possible conditions that could be imposed on Conditional Use No. 1510, if approved.

The Council discussed the need for transient campsites in the County and considered a condition requiring a percentage of sites to be reserved for such a use. A possible sixteenth condition was considered, as follows: “A minimum of 10 percent of the camping sites will be available for transient use on a weekly basis.”

M 237 04
Adopt
Ordinance
No. 1681
(C/U
No. 1510)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1681 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32.48 ACRES, MORE OR LESS” (Conditional Use No. 1510) filed on behalf of Elmer G. Fannin, with the following conditions:

- 1. The maximum number of campsites shall not exceed 277 sites.**
- 2. The camping season shall run from March 1 through October 31. All campsites shall remain vacant from November through February. There shall be no storage of campers or recreational vehicles on the site during the off-season.**
- 3. All units to be used for the purpose of human habitation shall be tents, travel trailers, recreational vehicles and equipment manufactured specifically for camping purposes.**
- 4. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s present and future determinations.**
- 5. All recreational facilities and amenities shall be constructed and open for use by the tenants of the project when the project opens for use. The**

recreational uses and amenities shall include a clubhouse, a camp store, an office, at least one bathhouse, picnic facilities, a swimming pool, and game courts.

6. The project shall be served by an on-site wastewater treatment and disposal system and shall be subject to the approval of DNREC. A dump station shall be provided for clean-out purposes for the recreational vehicles.

**M 237 04
(continued)**

7. The project shall be served by an on-site central water system providing adequate drinking water and fire protection as required by applicable regulations.
8. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements.
9. The interior street design shall meet or exceed the requirements of the Zoning Ordinance for campgrounds and shall include at least pavement from the entrance to the office, camp store and dump station areas and crusher run in the area of the campsites.
10. Street lighting shall be provided at intersections, in areas of recreational activities and the camp store and office at a minimum. All lighting shall be downward illuminated so that the lighting does not impact neighboring properties.
11. The applicant shall submit as a part of the site plan review a landscape plan showing the proposed tree and shrub landscape design. The landscape plan shall be subject to review and approval of the Planning and Zoning Commission.
12. There shall be no accessory building located on individual campsites.
13. There shall be no on-site sales of travel trailers or recreational vehicles.
14. Tenant restrictions shall be submitted with the site plan.
15. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.
16. A minimum of 10 percent of the campsites shall be available for transient use on a weekly basis.

Motion Adopted: 4 Yea, 1 Nay.

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

**Old
Business/
Proposed
Ordinance
Creating
a C-2
District**

The County Council considered the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING A C-2 LARGE SCALE COMMERCIAL DISTRICT”.

The Planning and Zoning Commission held a Public Hearing on this application on September 11, 2003; on November 6, 2003 the Commission recommended that the application be denied.

The County Council held a Public Hearing on this application on September 30, 2003 at which time they deferred action.

**M 238 04
Adopt
Proposed
Ordinance
M 238 04
(continued)**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING A C-1 LARGE SCALE COMMERCIAL DISTRICT”.

Motion Denied: 3 Nay, 2 Yea.

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

**Old
Business/
Proposed
Ordinance
Amending
Provisions
Relating to
Residential
Uses in
the B-1
and C-1
Commercial
Zoning
Districts**

The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO AMEND THE PROVISIONS RELATING TO RESIDENTIAL USES IN THE B-1 AND C-1 COMMERCIAL ZONING DISTRICTS BY LIMITING SUCH USES TO 4 DWELLING UNITS PER ACRE, TO ELIMINATE SECTION 115-77.1 LARGE SCALE USES, AND MAKE OTHER TECHNICAL CHANGES TO ARTICLE X, B-1 NEIGHBORHOOD BUSINESS DISTRICT AND ARTICLE XI, C-1 GENERAL COMMERCIAL DISTRICT”.

The Planning and Zoning Commission held a Public Hearing on this application on September 11, 2003; on November 6, 2003 the Commission recommended that the application be approved with the minor revisions, as reflected in the revised Proposed Ordinance dated October 21, 2003.

The County Council held a Public Hearing on this application on September 30, 2003 at which time they deferred action.

**M 239 04
Adopt
Proposed
Ordinance
Amending
Provisions
Relating to
Residential
Uses in
the B-1
and C-1
Commercial
Zoning
Districts**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO AMEND THE PROVISIONS RELATING TO RESIDENTIAL USES IN THE B-1 AND C-1 COMMERCIAL ZONING DISTRICTS BY LIMITING SUCH USES TO 4 DWELLING UNITS PER ACRE, TO ELIMINATE SECTION 115-77.1 LARGE SCALE USES, AND MAKE OTHER TECHNICAL CHANGES TO ARTICLE X, B-1 NEIGHBORHOOD BUSINESS DISTRICT AND ARTICLE XI, C-1 GENERAL COMMERCIAL DISTRICT”.

**Vote by Roll Call: Mr. Phillips, Yea;
Mr. Phillips withdrew his affirmative vote.**

Motion Denied: 4 Nay, 1 Yea.

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

Request Mr. Stickels presented a grant request for the Council's consideration.

M 240 04 Grant A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$200.00 from Mr. Jones' Youth Activity Grant Account and \$100.00 each from Mr. Dukes', Mr. Rogers' and Mr. Phillips' Youth Activity Grant Accounts) to the Coverdale Crossroads Community Council for the Easter Program and May Day event.

M 240 04 Youth Activity Grant
(continued) **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 Schedule It was the consensus of Council to revert back to the original schedule for Public Hearings on zoning applications. In the future, the Public Hearings will be scheduled and advertised to begin at 1:30 p.m.

M 241 04 Recess At 12:50 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to recess until 1:00 p.m. or shortly thereafter.

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

Public Hearing C/U No. 1530 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 TRASH DISPOSAL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.94 ACRES, MORE OR LESS" (Conditional Use No. 1530) filed on behalf of Moor Disposal Service, Inc.

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

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

Mr. Lank read correspondence received from Timothy Conaway, Keith Clausen, Scott Taylor, Jason Moore and Michael Nelson dated April 1, 2004 in opposition to the application. In the letter, they expressed concern about possible run-off from trash containers and portable toilets and any adverse affect on local waterways; that the parcel is adjacent to 409 acres of pristine land owned by the Nature Conservancy; that the large trash storage bins and portable toilets are plainly visible from Route 24 and will greatly

diminish the scenery in the area and the efforts of the Nature Conservancy to beautify the area; that the improper use of this land has been ongoing for several months and Moor Disposal Service has been cited for violating current zoning regulations by operating this business during that time; and that employees of Moor Disposal Service have been found illegally hunting on clearly posted no-hunting lands of the Nature Conservancy.

**Public
Hearing
C/U
No. 1530
(continued)**

The Council found that Heidi Balliet, Attorney, and Anne Marie Moore were present on behalf of the application. They stated that the Moore's wish to relocate their business office and garage warehouse space to this site for storage of their business equipment; that they currently run their business from a site on the same road (Route 24); that the plans for the proposed building have not been finalized; that there is no disposal proposed for this site; that portable toilets will be stored temporarily on site; that the trucks will be stored in the building; that the proposed use will create minimal environmental impact; that there will be minimal traffic impact on Route 24 since the current site is a 1/4 mile away from this site; and that the applicant is not increasing the size of their business.

Mr. Cole requested that the applicant provide a drawing showing fencing and/or landscaping which will buffer the view of the portable toilets.

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

**M 242 04
Defer
Action on
C/U
No. 1530**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on Conditional Use No. 1530 filed on behalf of Moor Disposal Service, Inc. and to leave the record open for a period of 7 days (until 4:30 p.m. on April 13, 2004) for submission of a landscaping plan by the applicant.

Motion Adopted: 5 Yea.

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

**Public
Hearing
C/U
No. 1545**

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 LANDSCAPING BUSINESS OFFICE, GREENHOUSES, AND MATERIAL AND SUPPLY STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 5.61 ACRES, MORE OR LESS" (Conditional Use No. 1545) filed on behalf of Christopher Valenti.

The Planning and Zoning Commission held a Public Hearing on this application on March 25, 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.

**Public
Hearing
C/U
No. 1545
(continued)**

The Council found that Tim Willard, Attorney, and Christopher Valenti were present on behalf of the application. They stated that the business is currently operated at Mr. Valenti's residence on New Road; that the existing dwelling will be used for an office; that no retail sales are planned or intended; that bins will be erected for storage of landscaping materials; that greenhouses are proposed; that they propose to plant screenings along the Hannaway property; that a new four bay garage is proposed for storage of vehicles and materials; that an Arboretum is proposed along Route One to screen the site from Route One; that the south entrance is the only entrance proposed; that the north entrance will be abandoned; that the hours of operation will be Monday through Friday 7:00 a.m. to 6:00 p.m. and Saturday 7:00 a.m. to 3:00 p.m.; that no hazardous chemical materials will be used or stored in contradiction with any governmental regulatory requirements; and that the property will not be rented for any residential housing use or for employee housing.

Public comments were heard.

Gene Wolter, the current owner of the property, stated that if he lived next door, he would not object because he believes Mr. Valenti will be a very responsible businessman and a good neighbor. He also stated that he believes the business would be an asset to the community.

Mr. Cole suggested that a condition of approval should include a setback, which will allow for future interconnections to other commercial properties.

The Public Hearing was closed.

**M 243 04
Defer
Action on
C/U
No. 1545**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to defer action on Conditional Use No. 1545 filed on behalf of Christopher Valenti.

Motion Adopted: 5 Yea.

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

**Public
Hearing
C/Z
No. 1533**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 83.74 ACRES, MORE OR LESS" (Change of Zone No. 1533) filed on behalf of Hailey/Ribera Development, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on March 25, 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.

**Public
Hearing
C/Z
No. 1533
(continued)**

Mr. Lank reported that a letter was received from DelDOT on April 29th revising their TAC comments, as follows:

"As per a meeting with Tom Ford of Land Design, Inc., it was determined that, since the Homeowners Association of Briarwood Estates are not interested in Hart's Landing having access from Tanglewood Drive, the Department will permit one entrance on Route 24 directly across from Williams Way within Bookhammer Estates. A right-of-way will need to be established from Love Creek Drive to Tanglewood Drive in which case Lot No. 19 will be eliminated or added elsewhere to the site. The reason for establishing a right-of-way is, if in the future the Homeowners Association of Briarwood Estates ever have their street turned over for State maintenance, the interconnection can be constructed with all costs associated being the sole responsibility of the owner/developer."

The Council found that Jeb Bittner, Applicant; Tim Willard, Attorney; and Tom Ford of Land Design, Inc. were present on behalf of the application and stated that the proposal is for a residential planned community consisting of 144 single family homes; that the gross density would be 1.7 lots per acre which is less than that permitted in the AR zoning district; that entrance and roadway improvements will be in accordance with the requirements of DelDOT; that there will be no adverse environmental impact and natural resources will be conserved; that the property is located in a designated growth area; that the development will be served by central water and sewer; and that the tree line will remain; that the rear lot line will be at the Federal 404 line; that there will be an average of 212 feet from wetlands to buildable areas with the exception of the crabbing pier; and that the property is separated into different watersheds and there will be several stormwater ponds.

Public comments were heard.

Mrs. Spencer Hart, owner of the property was in attendance. Carol Hart Stone and Janice Hart Burris, family members, were also in attendance. They spoke on behalf of the family describing the history of the property. They stated that their parents wanted to sell the property and that their father passed away in March 2004. Ms. Stone read a letter written by her deceased father.

Mr. Jim Gaskill stated that he, along with several other property owners in Briarwood Estates, expressed concerns at the Public Hearing before the

Planning and Zoning Commission and that he is now satisfied that the developer will address their concerns.

The Public Hearing was closed.

M 244 04 Defer Action M 244 04 Defer Action on C/Z No. 1533	A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on Change of Zone No. 1533 filed on behalf of Hailey/Ribera Development, LLC. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
M 245 04 Adjourn	A Motion was made by Mr. Jones, seconded by Mr. Phillips, to adjourn at 2:42 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Robin A. Griffith
County Clerk**