



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 20, 2004

Call to Order The regular meeting of the Sussex County Council was held Tuesday, April 20, 2004, at 6:30 p.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

**Withdraw Request/
C/Z
No. 1536** Mr. Stickels announced that a letter has been received from James A. Fuqua, Jr. of Fuqua and Yori, P.A. requesting that Change of Zone No. 1536 filed on behalf of Sandy Landing, L.L.C. be withdrawn. The application was scheduled for Public Hearing on April 20, 2004 at 7:45 p.m.

**M 246 04
Amend
and
Approve
Agenda** A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by striking "Michael Izzo, County Engineer, 1. Ellendale Sanitary Sewer District Collection and Conveyance Contract A. Change Order No. 2" scheduled for 6:45 p.m. and "Public Hearing: Change of Zone No. 1536, Sandy Landing, L.L.C." scheduled for 7:45 p.m., 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 247 04
Approve
Minutes** A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the minutes of April 6, 2004.

Motion Adopted: 5 Yea.

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

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

**Corre-
spondence**

Mr. Griffin read the following correspondence:

**Corre-
spondence
(continued)**

**LIDA WELLS, MILFORD MEMORIAL HOSPITAL AUXILIARY,
MILFORD, DELAWARE.**

RE: Letter in appreciation of grant.

**SOUTHERN DELAWARE THERAPEUTIC HORSEBACK RIDING
PROGRAM, NASSAU, DELAWARE.**

RE: Letter in appreciation of Human Service Grant.

**M 248 04
Adopt
Procla-
mation**

**A Motion was made by Mr. Rogers, seconded by Mr. Cole, to Adopt the
Proclamation entitled “PROCLAIMING THE WEEK OF APRIL 18
THROUGH 24, 2004 AS NATIONAL LIBRARY WEEK”.**

Motion Adopted: 5 Yea.

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

**Surplus
Electronic
Equipment**

**Mr. Stickels reported that the County has once again accumulated a large
quantity of used electronic equipment including fax machines, copiers,
telephones, calculators and other office type equipment. The items are no
longer of any use to the County due to age and speed. Some are in various
states of disrepair while others have just been replaced. It is proposed that
the equipment be offered for sale to the public on April 29th and April 30th.
Any remaining items following the sale would then be offered for public
auction at area auction houses.**

**M 249 04
Authorize
Sale of
Surplus
Electronic
Equipment**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, to authorize
the sale of surplus electronic equipment on April 29th and April 30th.**

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 County Administrator’s
Report:**

1. Beneficial Acceptance

The Engineering Department has granted Beneficial Acceptance to

the following three projects:

(a) The Refuge at Dirickson Creek, Phase 1, Sussex County Project No. 81-04, Agreement No. 289, developer Bunting-Gray, L.L.C., located in the Fenwick Island Sanitary Sewer District;

Adminis-
trator's
Report
(continued)

(b) The Village at Bear Trap Dunes, Phase 3B, Sussex County Project No. 81-04, Agreement No. 314, developer Carl M. Freeman Associates, Inc., located in the South Bethany Sanitary Sewer District;

(c) Villas at Beach Cove, Sussex County Project No. 81-04, Agreement No. 292, developer Pulte Homes Corporation, located in the Bethany Beach Sanitary Sewer District.

Fact sheets for these projects are included with this report.

2. Public Workshop

The Delaware Department of Transportation is holding a Public Workshop to present facts and solicit public comments regarding proposed conceptual plans for improvements along Camp Arrowhead Road from Route 24 to Road 277 and Patriot's Way from the vicinity of Road 48 through to US 113. The meeting will be held on Monday, May 3, 2004, at the Millsboro Fire Hall, 109 East State Street, Millsboro, Delaware. The public is invited to attend between 4:00 and 7:00 p.m.

As a result of the final recommendations from the Route 24 Planning Study, several local roads within the study area between US 113 and Route 1 were analyzed and prioritized for shoulder improvements. For both roads, improvements will include five-foot shoulders and improved drainage. In addition to those improvements, geometric improvements in certain areas along Camp Arrowhead Road will also be addressed.

3. Milton Library Construction Project

Milton Library will close on Thursday, April, 22, 2004, at 8:00 p.m. for a period of approximately four weeks to enable Kent Construction and subcontractors to perform necessary work in the existing building as part of the library expansion project. During this closing, library staff will be attending educational classes and reassigned to work other County libraries.

Holts
Landing
SSD/

Mr. Archut, Assistant County Engineer, presented an annexation request to expand the Holts Landing Sanitary Sewer District to include properties contiguous to the District including two proposed subdivisions and 13

Annexation Request **single-family lots. One of the proposed subdivisions, Sea Grass Plantation, will consist of 208 single-family dwellings. The other proposed subdivision, The Preserve at Irons Landing, will consist of 75 single-family dwellings. Both of these projects will participate in the construction of a new 10-inch force main at no cost to Sussex County. Mr. Archut stated that the 13 lots are located along Indian River Bay (West Beach). The Engineering Department is proposing that they be included in the annexation request and is requesting that Sea Grass Plantation provide sewer connections for these lots.**

Request (continued)

M 250 04 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Holts Landing Sanitary Sewer District boundary to include the Sea Grass Plantation and The Preserve at Irons Landing.**

Authorize Preparation of Notices/ Holts Landing SSD **Motion Adopted: 5 Yea.**

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

SCRWF/ Emergency Repairs of Treatment Plant **Loran George, District Manager, South Coastal Regional Wastewater Facility, discussed emergency repairs to the tanks at the South Coastal Regional Wastewater Facility (SCRWF). Mr. George reported that, as a part of the plant expansion, new aeration systems were installed in two tanks. This required pumping the tanks dry and cleaning the solids out. During this time, it was discovered that the seals are beginning to leak and the metal walls in the interior of the tanks need reinforcing.**

Mr. George reported that three price quotes were received from contractors for the repair of the seals in the two tanks. It is proposed that Industrial Service Contractors, Inc. be selected to do the work associated with repairing the seals. They would drill into the base of the tanks, injecting grout, after which a coating of sealer would be applied. The cost for this work (for the two tanks) is approximately \$17,000. It is also proposed that George Plummer & Son, Inc. be selected to do the work associated with reinforcing the interior metal walls. They would extend the existing vertical braces to the top of the walls and install additional bracing. The approximate cost for the four walls is \$33,880.

Mr. George stated that it is their plan to keep these treatment units in service as part of the expansion of the facility and that they are working with consultants to have an engineering firm that specializes in evaluation and testing concrete structures provide an estimate of the expected remaining service life of the tanks. The cost for this evaluation is \$23,117.

Mr. George stated that it is imperative that these plants are up and running by the second week of May.

Mr. Stickels noted that this scope of work is urgent to avoid any environmental problems.

**M 251 04
Authorize
Repairs**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the declaration of the County Administrator, that extraordinary conditions exist which require immediate action to protect health and property that the Engineering Department be excepted from the required use of a competitively bid contract and is hereby authorized to hire Industrial Service Contractors and George Plummer & Son, Inc. for repairs to the exterior and interior walls of the east and west treatment units of the South Coastal Wastewater Facility and a qualified engineering firm to perform a structural evaluation of the tanks, as allowed by Title 29, Section 6907, Paragraph A, of the Delaware Code.

**M 251 04
Authorize
Emergency
Repair
Work/
SCRWF
(continued)**

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. 1547**

The County Council discussed 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 19,500 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1547) filed on behalf of Robert G. Sando, Jr.

The Planning and Zoning Commission held a Public Hearing on this application on January 22, 2004 at which time action was deferred. On February 12, 2004 the Commission recommended that the application be denied. Mr. Lank, Director of Planning and Zoning, read a report outlining the Commission’s reasons for denying the application.

**M 252 04
Adopt
Proposed
Ordinance
(C/Z
No. 1547)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 19,500 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1547) filed on behalf of Robert G. Sando, Jr.

Motion Denied: 3 Nay, 2 Yea.

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

- Old Business/
C/U
No. 1548** **The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMPUTER REPAIR AND SALES OF COMPUTERS AND PARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 19,500 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1548) filed on behalf of Robert G. Sando, Jr.**
- Old Business/
C/U
No. 1548
(continued)** **The Planning and Zoning Commission held a Public Hearing on this application on January 22, 2004 at which time action was deferred. On February 12, 2004 the Commission recommended that the application be denied. Mr. Lank, Director of Planning and Zoning, read a report outlining the Commission’s reasons for denying the application.**
- M 253 04
Adopt
Proposed
Ordinance
(C/U
No. 1548)** **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMPUTER REPAIR AND SALES OF COMPUTERS AND PARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 19,500 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1548) filed on behalf of Robert G. Sando, Jr.**
- Motion Denied: 3 Nay, 1 Yea, 1 Abstention.**
- Vote by Roll Call: Mr. Phillips, Nay; Mr. Cole, Abstained;
Mr. Rogers, Nay; Mr. Jones, Yea;
Mr. Dukes, Nay**
- Grant Requests** **Mr. Stickels presented grant requests for the County Council’s consideration.**
- M 254 04
Council-
manic
Grant** **A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$250.00 from Mr. Rogers’ Councilmanic Account to Southern Delaware Center for the Arts and Humanities for a Sussex County Arts Study.**
- Motion Adopted: 5 Yea.**
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- M 255 04
Council-
manic
Grant** **A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$1,000.00 (\$200.00 from each Councilmanic Account) to the March of Dimes, Delaware State Chapter, for Sussex County Walk America.**
- Motion Adopted: 5 Yea.**

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

M 256 04 **A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$250.00, Youth Activity Grant Account, to Delaware Magic Softball Team for operating costs.**

Motion Adopted: **5 Yea.**

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

M 257 04 **A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$500.00 Councilmanic Grant (\$250.00 each from Mr. Jones' and Mr. Rogers' Councilmanic Accounts) to the Milford Middle School for the Odyssey of the Mind World Finals Competition.**

Motion Adopted: **5 Yea.**

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

M 258 04 **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$200.00 Youth Activity Grant (\$100.00 each from Mr. Phillips' and Mr. Cole's Youth Activity Grant Accounts) to the Lower Sussex Little League, Inc. for sponsorship of the 2004 season.**

Motion Adopted: **5 Yea.**

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

M 259 04 **A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$500.00 Councilmanic Grant from Mr. Dukes' Councilmanic Account to Nanticoke Riverfest for sponsorship of the 2004 event.**

Motion Adopted: **5 Yea.**

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

M 260 04 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,000.00 (\$200.00 from each Councilmanic Account) to the Sussex County S.A.L.T. Council to fund on-going programs and projects.**

Motion Adopted: 5 Yea.

M 260 04 (continued) **Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

M 261 04 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,500.00 (\$300.00 from each Councilmanic Account) to the American Legion Post 19 for grave marker flags.**

Motion Adopted: 5 Yea.

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

Table Request **The grant request from the Coastal Dance Academy was tabled pending further information as to whether or not they are a non-profit organization.**

Introduction of Proposed Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MUD BOG RACING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 17.94 ACRES, MORE OR LESS” (Conditional Use No. 1574) filed on behalf of Ray A. Ellis. The Proposed Ordinance will be advertised for Public Hearing.**

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 AND A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A LOCATION FOR ANNUAL CARNIVAL AND CIRCUS EVENTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.645 ACRES, MORE OR LESS” (Conditional Use No. 1575) filed on behalf of American Legion Post #28. The Proposed Ordinance will be advertised for Public Hearing.**

Introduction of Proposed Ordinance **Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE**

HUNDRED, SUSSEX COUNTY, CONTAINING 64.16 ACRES, MORE OR LESS” (Change of Zone No. 1557) filed on behalf of Muddy Neck, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Change of Zone No. 1558) filed on behalf of Rehoboth Canal Ventures, LLC. 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 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 16.49 ACRES, MORE OR LESS” (Change of Zone No. 1559) filed on behalf of Greg Ivanoff. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12.78 ACRES, MORE OR LESS” (Change of Zone No. 1560) filed on behalf of Lawrence A. Biasotto. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.45 ACRES, MORE OR LESS” (Change of Zone No. 1561) filed on behalf of Bargain Bill’s. The Proposed Ordinance will be advertised for Public Hearing.

Recess At 7:25 p.m., Mr. Dukes declared a twenty-minute recess.

Reconvene Mr. Dukes called Council back into session at 7:45 p.m.

Public A Public Hearing was held on the Proposed Ordinance entitled “AN

**Hearing/
C/U
No. 1531**

ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT FOR THE CREATION OF TWO (2) PONDS CONTAINING APPROXIMATELY 5.0 ACRES, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 78.48 ACRES, MORE OR LESS” (Conditional Use No. 1531) filed on behalf of Dean W. Sherman.

**Public
Hearing/
C/U
No. 1531
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on April 1, 2004 at which time they deferred action. On April 15, 2004 the Commission recommended that the application be approved, with thirteen conditions.

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

The County Council found that Dean Sherman, Applicant, was present with Everett Moore, Attorney. They stated that the application is for a borrow pit that is to be converted into two ponds; that the two ponds will encompass a total of five acres; that the applicant plans to construct his residence on the site overlooking the ponds; that affidavits were obtained from 15 neighbors in support of the application; and that the applicant hopes to be completed with the ponds within a reasonable amount of time; and that a reasonable time would be completion by May 2006.

It was noted that although the applicant asked for a completion date of May 2006, the Planning and Zoning Commission stipulated that “the excavation and operation of the borrow pit shall be limited to 12 months.”

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

**M 262 04
Adopt
Ordinance
No. 1682
(C/U
No. 1531)**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1682 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT FOR THE CREATION OF TWO (2) PONDS CONTAINING APPROXIMATELY 5.0 ACRES, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 78.48 ACRES, MORE OR LESS” (Conditional Use No. 1531) filed on behalf of Dean W. Sherman, with the following conditions:

- 1. The excavation and operation of the borrow pit shall be limited to 24 months. If necessary, the Applicant shall be allowed a reasonable amount of additional time to complete reclamation activities subject to the approval of the Director.**
- 2. The borrow pit shall not exceed 15 feet in depth.**
- 3. No materials shall be brought from off the site for processing, mixing or similar purposes.**

**M 262 04
Adopt
Ordinance
No. 1682
(C/U
No. 1531)
(continued)**

4. Water or a water truck shall be available to control dust from road traffic when conditions require.
5. Any entrance improvements required by DelDOT shall be completed by the Applicant. All entrances shall be secured when the borrow pit is not in operation.
6. The hours of operation for the business on this site shall only occur between the hours of 7:30 a.m. to 6:00 p.m. Monday through Friday and 7:30 a.m. until 12:30 p.m. on Saturdays. There shall not be any borrow pit activity on Sundays.
7. No fuel shall be stored on the site for borrow pit operations.
8. No stumps, branches, debris or similar items shall be buried on the site of the borrow pit.
9. A final site plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations.
10. The Applicants shall comply with all State and County erosion and sediment control regulations.
11. Markers and signs shall be placed at appropriate locations to designate pit areas.
12. Reclamation plans shall indicate finished grading, seeding, and planting schedules designed to create a pleasing appearance.
13. The Applicant shall also comply with all of the requirements set forth in Section 115-72B of the Sussex County Zoning Ordinance that may apply, with the exception of items (c), (d) and (e) of Section 115-72B(6) concerning additional setbacks, TAC review, and performance guarantees.
14. The borrow pit area shall not exceed five acres, as stated 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/Z
No. 1534)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.51 ACRES, MORE OR LESS” (Change of Zone No. 1534) filed on behalf of H2E2, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on April 1, 2004 at which time they deferred action. On April 15, 2004 the Commission recommended that the application be approved.

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary, along with the findings and

recommendation of the Commission, were admitted as part of the County Council's record.

Public
Hearing
(C/Z
No. 1534)
(continued)

The County Council found that Jesse and Julie Hall and Rush Ellis, the Applicants, were present with Tim Willard, Attorney, and Kevin Burdette of McCrone, Inc. They stated that seven professional office buildings for doctors' offices are proposed; that they propose seven separate units; that the site is surrounded by commercial uses and there are manufactured homes and GR zoning in the area; that they have addressed the concerns expressed during the Public Hearing before the Planning and Zoning Commission; that restrictive covenants have been recorded declaring that the property will not be used for single or multi-family residential units for a period of ten years; that central water will be provided by Tidewater Utilities; that the project can be served by the Long Neck Sanitary Sewer District; that the stormwater management facilities shown on the site plan should be adequate to serve the project; and that the conceptual plan shows that they will keep as many trees as possible.

Mr. Willard submitted a Petition of Support containing approximately 60 signatures in support of the application.

Mr. Cole referred to the Engineering Department's comments that "capacity is available for up to 24 EDUs". He expressed concern that in ten years, capacity may no longer be available.

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

M 263 04
Adopt
Ordinance
No. 1683
(C/Z
No. 1534)

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt Ordinance No. 1683 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.51 ACRES, MORE OR LESS" (Change of Zone No. 1534) filed on behalf of H2E2, LLC.

Motion Adopted: 4 Yea, 1 Abstention.

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

Public
Hearing
(C/Z
No. 1535)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.35 ACRES, MORE OR LESS" (Change of Zone No. 1535) filed on behalf of

Fenwick Commons, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on April 1, 2004 at which time they deferred action.

**Public
Hearing
(C/Z
No. 1535)
(continued)**

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

The County Council found that Joel Farr was present on behalf of Fenwick Commons, LLC with David Weidman, Attorney, and Ken Christenbury of River Basin Engineering. They stated that the application is for the development of 30 single-family lots on approximately 13 acres; that they have recorded restrictive covenants that prevent the increase in the number of units over 30; that the surrounding area is already residential in nature, including Americana Bayside; that there is a small cemetery on the site; that the cemetery will not be disturbed before, during or after development; that there will be a permanent easement provided on the site providing access to the site; that there are no wetlands on the site; that DelDOT did not require a traffic impact study; that they plan to connect to a County Sanitary Sewer District; and that the site is within a tax ditch district; however, no stormwater will be increased into the tax ditch.

Public comments were heard. Ellen Magee, a landowner living across from the site, was present in opposition and stated that her property is agricultural; that the applicant should be required to have central sewer and water before developing; that the County's Engineering Department advised her that it may be ten years before sewer is available to the area; that approving the rezoning would be spot-zoning; that 30 units on 13 acres is a drastic change to the landscape of the area; that a Certificate of Public Convenience and Necessity (CPCN) was granted to Artesian Water for this project; that all of the other parcels in the CPCN are located on Route 20 in Roxana; that it will be hard for Artesian Water to run a water line for 13 acres; that there is not any other MR zoning on Route 54 in the Williamsville area; and that Williamsville is rural and agricultural and this project is not conducive to the area.

The Public Hearing was closed.

**M 264 04
Defer
Action
(C/Z
No. 1535)**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer action on Change of Zone No. 1535 filed on behalf of Fenwick Commons, LLC; to leave the record open until the close of business on April 30, 2004 for written comments from the Engineering Department on the status of the expansion of the sewer districts in the area and their ability to serve this site; and to leave the record open for an addition period of time, until the close of business on May 7, 2004 for written comments from the Applicant in response to the Engineering Department's comments.

Motion Adopted: 5 Yea.

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

**Draft
Ordinances
Relating to
B-1, C-1,
and C-2
Commercial
Zoning
Districts
and
Subdivisions**

Mr. Dukes announced that he has asked Mr. Stickels to direct staff to revisit the Proposed Ordinances relating to residential uses in the B-1 and C-1 Commercial Zoning Districts and relating to a new C-2 Commercial Zoning District. Mr. Dukes requested that a new draft ordinance be prepared for Council's consideration.

Mr. Dukes told the Council that he has talked with John Allen of the Planning and Zoning Commission regarding the approval process for new subdivision development. They discussed the preparation of a draft ordinance whereby the approval of new subdivisions with less than 25 parcels would be at the discretion of the Director of Planning and Zoning. Under this approval process, all other procedures would still be followed, i.e. notifying property owners in the area, advertising, etc. A draft ordinance will be prepared for Council's consideration.

**M 265 04
Adjourn**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to adjourn at 9:05 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**