



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 10, 2005

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, May 10, 2005 at 6:30 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 293 05 Approve Agenda

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to amend the Agenda,

by deleting “ Russell Archut, Assistant County Engineer

1. Dagsboro-Frankford and Western Sussex Planning Areas

A. Consultant Selection Recommendation”; and

by changing the time of the “Public Hearing: South Bethany Sanitary Sewer District Muddy Neck Extension” from 7:10 p.m. to 7:15 p.m.;

and, to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

Corre- spondence

Mr. Griffin read the following correspondence:

**KAY M. HUDSON, DIRECTOR, MILFORD PUBLIC LIBRARY,
MILFORD, DELAWARE.**

RE: Letter in appreciation of grant funding for the Strawberry Festival.

BERNICE M. EDWARDS, EXECUTIVE DIRECTOR, FIRST STATE COMMUNITY ACTION AGENCY, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant funding for the “Kick Butts Day” event.

**M 294 05
Approve
Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of April 19, 2005.

Motion Adopted: 5 Yea.

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

**M 295 05
Approve
Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of April 26, 2005.

Motion Adopted: 5 Yea.

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

**State
Dog
Control
Proposal**

Mr. Stickels reported that the Fiscal Year 2006 Governor’s Recommended Budget includes the transfer of dog control responsibilities from the State to the individual counties.

Mr. David Small, Deputy Director of DNREC, reported that, if this proposal is enacted by the General Assembly, fifty percent of the total cost of dog control would be incurred at the county level, with the long-term goal of the counties assuming full control over the operation of the program in Fiscal Year 2007.

Mr. Small presented a historical summary of the Delaware Dog Control Program. Dog control started in Delaware in 1925, when it was operated as a function of the Game and Fish Commission and the enforcement was done by wardens. In 1970, the Commission was dissolved and its duties were assumed by DNREC/Division of Fish and Wildlife. Eventually, dog control was transferred to the Delaware S.P.C.A. by contract. This change was associated with a fundamental shift in services provided due to an increasing demand for dog control.

Mr. Small reported that until the mid-1970’s, dog licenses and fines paid for the cost of dog control. From 1975 through 1984, program income had to be supplemented through Grant-In-Aid from the General Assembly. In 1985, support for the dog program was switched to the General Fund.

State
Dog
Control
Proposal
(continued)

Currently, the Program is funded primarily by two sources: (1) General Fund through the State Budget Bill and (2) through appropriated special funds, i.e. license sales, fines, and kennel licenses collected by various agencies.

Mr. Small reported that there are two independent S.P.C.A. organizations in the State. The Delaware S.P.C.A. operates in New Castle County with a satellite service in Sussex County, and the Kent S.P.C.A. services only Kent County. Both agencies operate under a contract with the Delaware DNREC. The contracts are bid through a Request for Funding Proposal every four years and renewed annually by mutual consent. The Delaware and Kent S.P.C.A. are chartered by the General Assembly of the State of Delaware as nonprofit corporations responsible for investigating animal cruelty.

Mr. Small reported that the number of service requests in Sussex County for the period July 1, 2003 through June 30, 2004 was 3,885; that approximately 1,000 stray dogs were brought in by animal control officers; and that the number of stray dogs brought in by the public were approximately 400.

Mr. Small reiterated that this is only a proposal at this point in time. It is envisioned that each County, in the coming fiscal year, would be given its pro-rated General Fund share for Fiscal Year 2006. In the Governor's proposal, it was recommended that 50 percent of the funding would come from each county. The State would continue to collect the fees/fines and would distribute the funding on a pro-rated share. Effective January 1, 2006, each county would be authorized to set dog license fees and collect revenues associated with the fees/fines to generate funds to operate the program. As of July 2006, there would be no further dog control funding appropriations from the State.

Mr. Stickels responded that the three counties have stated that, if this proposal is to be considered at all, the proposed schedule would need to be amended and the transition period would need to be extended beyond one year.

Mr. Small acknowledged that many issues will need to be considered: timing, transition, funding, changes in State Code, enforcement authorities,, County ordinances for implementation, level of S.P.C.A. funding, etc.

Mr. Small reported that the Delaware S.P.C.A. has sent a letter to the State voicing its concerns about the level of funding in order to carry out its current contractual responsibilities. He noted that the current amount of combined funding is \$533,541 for New Castle County; \$232,000 for Kent County; and \$274,850 for Sussex County. Mr. Small stated that he believes that the S.P.C.A. has reported a funding shortage of \$50,000.

The County Council discussed the proposal and commented that if dog

license fees are increased, there will be an increase in the number of unlicensed dogs; that the program is a problem for the State and that they want to turn that problem over to the counties; that there is no support for the proposal; and that the County Council would consider providing funding for the State program.

**State
Dog
Control
Proposal
(continued)**

John Caldwell, Director of the Delaware S.P.C.A., advised the Council that the Delaware S.P.C.A. officially notified the State in March 2005 that they do not intend to enter into a contract with the State in July 2006 for Fiscal Year 2007 and that they will turn the dog control program over to the State effective at that time. Further, the Delaware S.P.C.A. has stated that they will sign the Fiscal Year 2006 contract only if the program is adequately funded (\$931,433 has been requested for Fiscal 2006 for New Castle County and Sussex County). He noted that, of that amount, \$55,000 in funding was requested due to the non-renewal of the Board of Health contract, which provided funding for one staff position. Mr. Caldwell reported that only three employees are funded through the State's Dog Control Program and that the Delaware S.P.C.A. has subsidized the State of Delaware in the amount of \$331,000 in the past three years to run the program. Mr. Caldwell noted that it would take approximately ten employees and \$3 million - \$6 million annually to run the program adequately in Sussex County.

Mr. Caldwell stated that when their contract with the State expires, the S.P.C.A. will go back to their true mission of cruelty investigations, adoptions, humane education and neutering.

The County Council did not take any action on the dog control proposal.

**Public
Hearing/
South
Bethany
SSD/
Muddy
Neck
Extension**

A Public Hearing was held to consider extending the South Bethany Sanitary Sewer District (SBSSD) to include lands now or formerly of Gilbert W. Hassell & Jocelyn A. Clements Co-Trustees. Mr. Archut noted that the project, known as the Muddy Neck Project, is located on Double Bridges Road, west of the town of South Bethany and contiguous to the SBSSD. Mr. Archut further noted that the project received approval from the County Council on March 22, 2005 for a Change of Zone from AR-1 to MR-RPC to allow for 138 units. The total acreage for the project is 64.16 acres and the density of the project is 2.15 EDUs per acre.

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

**M 296 05
Adopt
Resolution
No.
R 015 05**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 015 05 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SOUTH BETHANY SANITARY SEWER DISTRICT TO ENCOMPASS LANDS N/F OF GILBERT W. HASSELL AND JOCELYN A. CLEMENTS, CO-TRUSTEES, LYING CONTIGUOUS TO THE SOUTH BETHANY SANITARY SEWER DISTRICT, SITUATE SOUTH OF THE TOWN OF OCEAN VIEW AND

BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yea.

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

M 297 05 **A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt the
Adopt** **Tribute commending Joseph F. McHugh for twelve years of public service
Tribute as Councilman and Mayor of the Town of Bethany Beach.**

Motion Adopted: 5 Yea.

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

M 298 05 **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt the
Adopt** **Proclamation entitled “PROCLAIMING THE MONTH OF MAY AS
Procla- COMMUNITY ACTION MONTH”.**
mation

Motion Adopted: 5 Yea.

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

M 299 05 **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt the
Adopt** **Proclamation entitled “PROCLAIMING THE WEEK OF MAY 15
Procla- THROUGH MAY 21, 2005 AS EMERGENCY MEDICAL SERVICES
mation WEEK”.**

Motion Adopted: 5 Yea.

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

EMS **Mr. Stuart, Assistant Director of EMS, reported on the activities that are
Week scheduled for EMS Week.**

Adminis- **Mr. Stickels read the following information in his Administrator’s Report:**
trator’s

Report **1. Sussex County Council Prayer Breakfast**

**The 28th Annual Sussex County Council Prayer Breakfast will be
held on Monday, May 16, 2005, at 7:00 a.m. at the CHEER
Community Center on Sand Hill Road in Georgetown. This year’s
guests will be Paul and Susie Luchsinger of Psalms Ministries. Susie**

Luchsinger is the sister of Reba McEntire. Tickets are still available at \$12.00 per person in the County Council Office.

2. Beneficial Acceptance

The Engineering Department gave Beneficial Acceptance to the following projects:

Adminis-
trator's
Report
(continued)

- Bayside at Bethany Lakes, Sussex County Project No. 81-04, Agreement No. 319, was approved on April 26, 2005. The developer is Hockessin Chase, L.P., and the project is located in the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District, consisting of 48 townhouses.
- Americana Bayside - Phase I, Sussex County Project No. 81-04, Agreement No. 341, was approved on April 27, 2005. The developer is Carl M. Freeman Communities, and the project is located in the Fenwick Island Sanitary Sewer District, consisting of 150 multiple building types (single-family, townhouses, and commercial).
- Silverwoods, Sussex County Project No. 81-04, Agreement No. 305, was approved on April 28, 2005. The developer is Robert L. Thornton, and the project is located in the Miller Creek Sanitary Sewer District, consisting of 29 single-family lots and a pump station.

A fact sheet on each of the projects is included with this report.

3. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities

The Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities will meet on Monday, May 16, 2005, at 10:00 a.m. The meeting will take place at the Sussex County West Complex on North DuPont Highway, Georgetown, Delaware. The media as well as the general public is welcome to attend.

Draft
Ordinance
Creating
a Post
Employment
Benefit
Plan

Mr. Baker presented a Draft Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 27 OF THE CODE OF SUSSEX COUNTY TO CREATE A POST EMPLOYMENT BENEFIT PLAN TO PAY OTHER THAN PENSION BENEFITS TO RETIRED COUNTY EMPLOYEES AND TO AUTHORIZE COUNCIL TO IMPLEMENT AND FUND THE PLAN" for the Council's consideration. Mr. Baker explained reported that the Council has previously approved funding in the amount of \$2,386,561 to pay other post employment benefits to employees who are receiving County pensions. These benefits include such items as payment of health insurance premiums and vision and dental care benefits. Approximately 86 former County employees are receiving some form of other post employment benefits at the present time. The purpose of this

Ordinance is to formally codify the present policy of the County under which these benefits are being paid and to create a formal plan as a basis for the payment of such benefits now and in the future.

Introduction of Proposed Ordinance Introduction (continued) **Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO ADOPT CHAPTER 27 OF THE CODE OF SUSSEX COUNTY TO CREATE A POST EMPLOYMENT BENEFIT PLAN TO PAY OTHER THAN PENSION BENEFITS TO RETIRED COUNTY EMPLOYEES AND TO AUTHORIZE COUNCIL TO IMPLEMENT AND FUND THE PLAN”. The Proposed Ordinance will be advertised for Public Hearing.**

Oak Orchard SSD/ Contract C/ Change Order **Mr. Izzo, County Engineer, reviewed Change Order No. 1 to the contract with George & Lynch for the construction of Pump Stations 188 and 189 in the Oak Orchard Sanitary Sewer District. He noted that the change order references the electrical cabinet at Pump Station 189, the Regional Pump Station. It was determined that the originally designed electrical enclosure was not large enough to house all of the electrical equipment required and that it would be necessary to purchase an additional cabinet at a cost of \$2,419.20.**

M 300 05 Approve Change Order/ Contract C/ Oak Orchard SSD **A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants, Cabe Associates, Inc., for Sussex County Project No. 99-19C, Oak Orchard Sanitary Sewer District Pump Stations 188 and 189, that Change Order No. 1 be approved in the amount of \$2,419.20, which increases the contract total to \$994,119.20.**

Motion Adopted: 5 Yea.

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

Corporate Hangars Taxi-lane Project/ Change Order **Mr. Izzo, County Engineer, reviewed Change Order No. 3 to the contract with JJID, Inc. for the Corporate Hangars Taxi-lane Project. Mr. Izzo explained that a new taxi-lane is being installed to provide service to the main runway for five corporate hangars that will be constructed in the near future. The contract commenced in the Fall of 2004; however, the significant rain events in December resulted in wet site conditions which prohibited the contractor from getting the base down in the area where the taxi-lane was to be constructed. Mr. Izzo explained that there were two options to consider: to shut down the contract and wait for the soils to dry out before commencing the work or to come up with a different base material to be put down in wet weather. Mr. Izzo stated that it was determined that the best alternative would be to use a different base material (6 additional inches of stone) at a cost of \$14,400.00. Mr. Izzo noted that the change order consisted of four other cost items totaling \$5,830.94, including an additional fire hydrant, removal of an underground storage tank, demolition of existing concrete foundations, and removal and replacement of an existing storm pipe. Mr. Izzo further noted that the**

project is FAA funded.

**M 301 05
Approve
C/O for
Airport
Project
M 301 05
(continued)**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Engineering Consultants, Delta Airport Consultants, Inc., for Sussex County Project No. 04-11, Sussex County Airport Corporate Hangar Taxi-lane, that Change Order No. 3 be approved in the amount of \$20,230.94.

Motion Adopted: 5 Yea.

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

**Old
Business/
C/U
No. 1605**

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 CONSTRUCTION OF A FAMILY CENTER (PRIVATE CLUB) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.03 ACRES, MORE OR LESS” (Conditional Use No. 1605) filed on behalf of the Loyal Order of Moose, Inc., East Sussex Lodge #2542.

The Planning and Zoning Commission held a Public Hearing on this application on April 7, 2005 at which time they recommended that the application be approved with seven conditions.

The County Council held a Public Hearing on this application on April 26, 2005 at which time they deferred action.

**M 302 05
Adopt
Proposed
Ordinance
C/U
No. 1605
(DENIED)**

A Motion was made by Mr. Cole, 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 CONSTRUCTION OF A FAMILY CENTER (PRIVATE CLUB) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.03 ACRES, MORE OR LESS” (Conditional Use No. 1605) filed on behalf of the Loyal Order of Moose, Inc., East Sussex Lodge #2542.

Motion Denied: 4 Nay, 1 Abstention.

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

(Mr. Phillips did not participate in the Public Hearing on Conditional Use No. 1605.)

Reasons

The County Council denied the application for the following reasons:

for Denial

**Reasons
for Denial
(continued)**

- The use as a family center (private club) would be out of character with the community, which is primarily agricultural and residential, and would not be consistent with the surrounding properties.
- The property is zoned AR-1 Agricultural Residential, which references in its purpose that agricultural operations and activities be protected. The use would not be appropriate since it is proposed to be placed between an existing hog farm and an existing poultry farm. The use may cause a bio-security risk for poultry farm operations. The use may cause additional noise that could impact the poultry farm operation. Night-time vehicle lights could disturb the poultry farm operation.
- The proposed use may have a significant impact on traffic. The site is located on a narrow County road with several curves and no shoulders.
- The proposal, if approved, would have a negative impact on neighboring and adjacent properties, based on reasons stated by the opposition to the application.
- The proposed use does not promote the health, safety, convenience and general welfare of the neighborhood or community.

**Draft
Ordinance
Relating
to a CR-1
Commercial
Residential
District**

The County Council discussed a draft ordinance relating to a CR-1 Commercial Residential District. Part One of this amendment corrects an earlier error that had made certain amusements conditional uses. Also, the existing C-1 District is closed, thereby grandfathering existing zones. Part Two creates an entirely new zoning district modeled directly after the now closed C-1 district. However, the new district would allow residential uses as a Conditional use and at a density not exceeding 4 units per acre. The new district also includes several text changes addressing issues raised by the Council or staff. Part Three would limit any new B-1 Conditional Use for multifamily at no more than 4 units per acre. Part Four amends the “Bulk, area and height” requirements to recognize the reduced density in the B-1 and new CR-1 districts. Part Five adds Table III that establishes the new density requirements.

Following the discussion, it was the consensus of the Council that a workshop on land use ordinances be held in the near future to allow sufficient time for discussion.

**Public
Hearing
C/U
No. 1607**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR A PAINTING CONTRACTOR’S BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 20,322 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1607) filed on behalf of Myra Mitchell and Cliff Burris.

The Planning and Zoning Commission held a Public Hearing on this

application on April 21, 2005 at which time they deferred action.

(See the minutes of the Planning and Zoning Commission dated April 21, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

**Public
Hearing
C/U
No. 1607
(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 Council found that Myra Mitchell was present on behalf of the application. She stated that they propose to use this site as extension of their business in the City of Milford since they need more room; that they propose to use an existing 20' by 30' building on the site for painting and staining trim packages and shutters; that the building is currently vacant; that employees would only be at the site on a part-time basis; that there would be no sand-blasting on the site; and that all painting would be done inside.

There were no public comments and the public hearing was closed.

**M 303 05
Defer
Action
on C/U
No. 1607**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A PAINTING CONTRACTOR'S BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 20,322 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1607) filed on behalf of Myra Mitchell and Cliff Burris.

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/U
No. 1608)**

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 DOG GROOMING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.39 ACRES, MORE OR LESS" (Conditional Use No. 1608) filed on behalf of Leslie Carter.

The Planning and Zoning Commission held a Public Hearing on this application on April 21, 2005 at which time they recommended that the application be approved with six conditions.

(See the minutes of the Planning and Zoning Commission dated April 21, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

**Public
Hearing
(C/U
No. 1608)
(continued)**

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

The Council found that Leslie Carter was present on behalf of the application. She stated that she proposes to perform pet grooming; that there will be no boarding of animals over night; that the garage will be converted into a grooming area; that there will be no Sunday hours; that there will be no employees; and that she would like to erect a small sign to advertise the business.

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

**M 304 05
Adopt
Ordinance
No. 1777
(C/U
No. 1608)**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt Ordinance No. 1777 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DOG GROOMING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.39 ACRES, MORE OR LESS" (Conditional Use No. 1608) filed on behalf of Leslie Carter, with the following conditions:

1. Permitted business hours shall be Monday through Friday 7:00 a.m. to 9:00 p.m. and Saturday 9:00 a.m. to 1:00 p.m., with no Sunday hours.
2. One non-lighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.
3. There shall be no outside kennels.
4. There shall be no over-night boarding of animals.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/U
No. 1609)**

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 THE SALES OF PRODUCE, NURSERY STOCK, FLOWERS, AND SEAFOOD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 11.7458 ACRES, MORE OR LESS" (Conditional Use No. 1609) filed on behalf of Robert Rutkowski, Jr.

The Planning and Zoning Commission held a Public Hearing on this application on April 21, 2005 at which time they recommended that action be deferred.

(See the minutes of the Planning and Zoning Commission dated April 21, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Public
Hearing
(C/U
No. 1609)
(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 Council found that Robert Rutkowski was present on behalf of the application. He stated in his presentation and in response to questions raised by the Council that he sells seafood and produce at the site; that the business is open and has been open for three years; that the existing building will be removed and replaced with a pole building; that he received an informal violation from the County and immediately came in and submitted an application; that he does not have any permits or licenses from any agencies; that the Health Department has made inspections; that there is no running water on the premises; that they keep their hands sanitary with hand sanitizer and gloves; and that he was unaware that he needed permits and licenses.

Mr. Rutkowski submitted five letters and a petition with 88 signatures in support of the application.

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

M 305 05
Defer
Action on
C/U
No. 1609

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE SALES OF PRODUCE, NURSERY STOCK, FLOWERS, AND SEAFOOD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 11.7458 ACRES, MORE OR LESS" (Conditional Use No. 1609) filed on behalf of Robert Rutkowski, Jr.

Motion Adopted: 5 Yea.

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

Requests

Mr. Stickels presented grant requests for the Council's consideration.

M 306 05
Council-
manic

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$1,250.00 (\$750.00 from Mr. Phillips' Councilmanic Account and \$125.00 each from Mr. Cole's, Mr. Dukes', Mr. Jones', and Mr. Rogers'

Grant **Councilmanic Accounts) to the OM (Odyssey of the Mind) Boosters of the Indian River School District for the World Finals at the University of Colorado.**

Motion Adopted: 5 Yea.

M 306 05 **Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**
(continued) **Mr. Dukes, Yea; Mr. Rogers, Yea;**
 Mr. Jones, Yea

Requests **The funding request from the Georgetown Chamber of Commerce and the**
Tabled **Greenwood Spring Festival were deferred.**

M 307 05 **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to transfer**
Transfer **\$1,500.00 from the General Fund Contingency Account to the County**
of Funds/ **Council Grant Account and to give \$1,500.00 from the County Council**
County **Grant Account to the Laurel American Legion for grave marker flags.**
Council

Grant **Motion Adopted: 5 Yea.**

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

M 308 05 **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00**
Council- **(\$250.00 each from Mr. Phillips' and Mr. Cole's Councilmanic Accounts) to**
manic **the Friends of the South Coastal Library for the Beach and Bay Cottage**
Grant **Tour fundraiser.**

Motion Adopted: 5 Yea.

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

M 309 05 **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500.00**
Council- **from Mr. Rogers' Councilmanic Account to the Fourth of July Committee**
manic **for fireworks (Slaughter Beach).**
Grant

Motion Adopted: 5 Yea.

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

Introduction **Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**

Ordinance **AGRICULTURAL RESIDENTIAL DISTRICT FOR A WOOD SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 34.9557 ACRES, MORE OR LESS” (Conditional Use No. 1632) filed on behalf of Timothy and Vickie O’Hare. The Proposed Ordinance will be advertised for Public Hearing.**

Introduction of Proposed Ordinance	Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (16 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.1 ACRES, MORE OR LESS” (Conditional Use No. 1633) filed on behalf of Michael Orndorff. The Proposed Ordinance will be advertised for Public Hearing.
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Introduction of Proposed Ordinance	Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT 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 SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 41,009 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1584) filed on behalf of Robert Williamson. The Proposed Ordinance will be advertised for Public Hearing.
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M 310 05 At 9:12 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips,
Authorize to authorize an Executive Session to be held to discuss pending or potential
Executive litigation and to recess and go into Executive Session. Motion Adopted by
Session and Voice Vote.

Hold Executive Session **An Executive Session of the Sussex County Council was held at 9:14 p.m. in the Caucus Room of the County Council Chambers to discuss pending or potential litigation.**

**M 311 05 At 9:28 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Rogers, to
Reconvene come out of Executive Session and to reconvene the Regular Session of the
County Council meeting. Motion Adopted by Voice Vote.**

M 312 05 **At 9:20 p.m., A Motion was made by Mr. Cole, seconded by Mr. Rogers, to**
Adjourn **adjourn the meeting. Motion Adopted by Voice Vote.**

Respectfully submitted,

Robin A. Griffith
Clerk of the Council