



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 29, 2004

Call to Order

The regular meeting of the Sussex County Council was called to order by President Dukes on Tuesday, June 29, 2004, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware. The following were 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

The Invocation and Pledge of Allegiance were led by President Dukes.

M 388 04 Approve Agenda

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda by deleting the following:

David B. Baker, Finance Director

1. Bank Account Recommendations

**A. Sussex County Council – Holts Landing,
The Greens Construction Account**

B. Sussex County Council – Employees Health Fund

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 389 04 Approve

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to approve the minutes of June 22, 2004.

Minutes

Motion Adopted: 5 Yea.

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

Request for Noise Ordinance

Mr. Stickels reported that he received a phone call from Mr. Burton Barr, a resident of Rehoboth Beach, asking if could speak at a County Council meeting regarding the adoption of a noise ordinance by the County Council. Mr. Stickels advised Mr. Barr that the County Council has discussed a noise ordinance in the past, however; an ordinance has not been adopted because of the County's inability to enforce it without its own police department.

Mr. Barr told the County Council that he lives across the street from the elementary school in Rehoboth; that Anglers Restaurant is located across the street; that the restaurant provides entertainment (musical groups) on the weekends and sometimes on Wednesday nights, that the noise from this entertainment is very disturbing to the entire neighborhood; that the revving of cars and motorcycles is also disturbing; that this has been going on for several years; that they have tried to have something done about it, but they have not been successful; that this year, it is not quite as loud as previous years; that in previous years, the windows in his house would shake; that this problem also exists on Road 54 in Fenwick Island; and that this is a County-wide problem.

Mr. Barr provided a copy of a noise ordinance adopted by City of Rehoboth Beach and that the format of the ordinance was recommended by the League of Municipalities. Mr. Barr quoted the following sentence in the Ordinance, as follows: "No permittee shall use any sound amplifying equipment in any manner and at any time so as to unreasonably disturb the peace and quiet of any neighborhood or of the citizens thereof." and "No person shall play or cause to be generated any music after 11:00 p.m. either: (1) From a patio; or (2) From internal speakers in a premises that can be heard on the premises patio..." Mr. Barr proposed that the County Council consider adopting a similar ordinance to be effective County-wide.

Mr. Stickels commented that the adoption of a noise ordinance would have to be in cooperation with the State Police.

A questioned was raised whether the Commission of Alcoholic Beverage Control (ABC) can enforce a noise complaint when it is related to an establishment with a liquor license. Mr. Barr stated that he contacted Commissioner Cordrey of the ABC and his response was that the problem would have to be severe for any action to be taken.

Greg Nolt, Troop Commander, Delaware State Police, stated that he hopes the Delaware State Police can address this problem through current State

law and that they will take a close look at the problem in conjunction with the ABC.

It was the consensus of the County Council to take the noise ordinance under advisement.

**Preliminary
Land Use
Service
(PLUS)**

Mr. Stickels advised the County Council that he received a letter from Connie Holland, Director of State Planning Coordination, dated June 14, 2004. The letter references the State's role in reviewing land use proposals which changed with the passage of Senate Bill No. 65 last summer and the Memorandum of Understanding between the County and the State pertaining to the Preliminary Land Use Service (PLUS) Process. (The Bill creating the PLUS process became effective February 14, 2004.) In the letter, Mrs. Holland reported on several issues that have been identified in Sussex County. Mr. Stickels advised that he wanted to make the County Council aware of the issues that they would like addressed.

“With the length of time between application submittal and a hearing before the Planning and Zoning Commission being as long as eight months, we would like to work with the County to allow application prior to or simultaneous with PLUS application review. With this change, we would ask that a completed PLUS review be required prior to a project being placed on Planning Commission agenda for those projects that meet the thresholds in the Memorandum of Understanding between Sussex County and the Office of State Planning Coordination.”

Mr. Stickels clarified Mrs. Holland's request; he stated that she is asking the County Council to waive the requirement that applicant's have to go the State before the County will accept their application. The County now has a six to eight month wait and requiring prior approval from the State extends that time by two to three months.

Mr. Stickels recommended that the County Council permit applications to be made prior to an applicant going through the PLUS process, as requested by Mrs. Holland; however, no action will be taken by the County until the PLUS process has been completed and comments received from the State. He noted that the comments from the State will most likely be received by the time the application goes to Public Hearing before the Planning and Zoning Commission. The County Council did not have any objections to Mr. Stickels' recommendation.

Mr. Stickels advised the County Council of the other two issues cited by Mrs. Holland in her letter, which will necessitate a meeting between the County and the Office of State Planning Coordination and which relate to residential development projects of more than 50 units that are not requesting subdivisions and waiving projects in the Environmentally Sensitive District that may not require State review through PLUS.

**Sussex
County
Land
Trust/
Expendi-
ture
Request
Sussex
County
Land
Trust/
Expendi-
ture
Request/
Angola
Site
(continued)**

Wendy Baker, President and Chief Executive Officer of the Sussex County Land Trust (SCLT), was present with Pete Martin, Field Ecologist with Delaware Wildlands, and Dennis Forney, Boardmember of the SCLT. She reported that at the May 22nd meeting of the Sussex County Land Trust Board of Directors, the Board passed a Motion to request the County Council to allow the expenditure of up to \$1.5 million over the next three years to purchase lands from Delaware Wildlands Inc. in partnership with the State of Delaware. The property, known as the Angola site, is comprised of four parcels totaling approximately 650 acres. Ms. Baker advised that the SCLT Board believes that these lands represent significant areas, which should be preserved in perpetuity in Sussex County. The Board also believes that this area should be enjoyed by all and therefore, open to the public.

Mr. Martin described the four parcels that are offered for sale:

- Perry Property (189 acres along Love Creek and Rehoboth Bay at Bookhammer Landing)
- Herring Landing property (429 acres along Herring Creek and Rehoboth Bay)
- Marsh Island (35 acres on the south side of Herring Creek)
- Seal Island (small island in Little Assawoman Bay)

Mr. Stickels reported that John Hughes, Secretary of Natural Resources and Environmental Control, has indicated that, if the State is able to secure \$4 million for this property, that they would release the \$500,000 commitment from the SCLT. Mr. Stickels noted however that, to date, a commitment has not been received from the State due to the fact that a Bond Bill has not been passed.

Mr. Stickels distributed and reviewed a listing of twenty-one conditions that will be placed on the property. He noted that they are similar to the conditions placed on the State's purchases of similar sites.

Mr. Phillips commented on one of the conditions which relates to prohibiting horses on the site. He questioned whether it would be possible to open up one of the sites for horses/horse trails. Ms. Baker stated that she would work with DNREC on this issue.

Mr. Jones emphasized that there are areas in western Sussex County that should be preserved as open space.

**M 390 04
Authorize
Negotiation
of Purchase
of Land**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council, having met in public session, authorizes the Sussex County Land Trust to negotiate the purchase of the property known as the Perry property, Herring Landing property, Marsh Island, and Seal Island, with Delaware Wildlife and the State of Delaware, in an amount not to exceed \$1.5 million over three years.

Motion Adopted: 5 Yea.

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

Appoint-ments **Mr. Stickels informed the County Council of terms that have expired on the Library Advisory Board.**

M 391 04 **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to reappoint**
Appoint-ment to **Luray McClung to the Library Advisory Board for a term of four years.**
Library

Advisory **Motion Adopted: 5 Yea.**
Board

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

M 392 04 **A Motion was made by Mr. Rogers, seconded by Mr. Jones, to appoint**
Appoint-ment to **Dennis Hughes to the Library Advisory Board for a term of four years.**
Library

Advisory **Motion Adopted: 5 Yea.**
Board

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

(Mr. Hughes will be replacing Ann Porter, who's term has expired.)

M 393 04 **A Motion was made by Mr. Rogers, seconded by Mr. Cole, to appoint**
Appoint-ment to **Sherrill Christian to the Library Advisory Board for a term of four years.**
Library

Advisory **Motion Adopted: 5 Yea.**
Board

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

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

1. Airport Meeting

The next regularly scheduled meeting of the Sussex County Airport Committee will be held on Wednesday, July 14, 2004, at the Sussex County Administrative Office Building (West Complex), North DuPont Highway, Georgetown, Delaware, at 6:00 p.m. The media, as well as the public, is invited to attend this meeting.

Adminis-
trator's
Report
(continued)

2. Delaware Department of Transportation Capital Transportation Program

The Delaware Department of Transportation will hold a public meeting on Thursday, September 9, 2004, at the DelDOT Georgetown Administrative Building Conference Room, North DuPont Highway, Georgetown, Delaware, to discuss FY 2006 - FY 2011 Capital Transportation Program. The workshop will take place from 6:00 to 7:00 p.m. The public will be allowed to give comments starting at 7:00 p.m. If any Councilman has transportation programs in their district that would qualify for the CTP Program, I would appreciate getting your comments by July 30.

3. Delaware Department of Transportation - Public Workshop

The Delaware Department of Transportation is holding a Public Workshop to show and discuss the selected alternative for intersection improvements at U. S. 9 and Road 319, in Georgetown. The workshop will be Thursday, July 8, 2004, from 4:00 to 7:00 p.m., at DelDOT's Southern District Conference Room, North DuPont Highway, Georgetown, Delaware. The purpose of the project will be to correct numerous operational problems at the intersection, including existing intersection offsets, intersection angle, and intersection capacity (also known as level of service).

4. Summer Recess

The Sussex County Council will not meet on Tuesday, July 6, 2004 and Tuesday, July 13, 2004, to allow for a summer recess. The next regularly scheduled meeting will be at 10:00 a.m. on Tuesday, July 20, 2004, with zoning hearings starting at 1:30 p.m.

Draft
Ordinance
Authorizing
the
Issuance
of Bonds/
Inland Bays
Regional
Wastewater
Treatment
Facility

Mr. Baker presented a draft ordinance authorizing the issuance of an additional \$1,000,000 of funding for the expansion of the Inland Bays Regional Wastewater Treatment Facilities. More specifically, the funding would be used for land purchase costs. Mr. Baker reported that the USDA has given final approval for funding for this project and has included an additional \$1,000,000 in grants and \$1,000,000 in loan funding for the project. The total funding from the USDA will now be \$7 million in loans and \$2 million in grants, along with the previously approved \$10 million in loans and \$3 million in grants from the State. The USDA loan terms are 40 years general obligation at 4.375 percent. This ordinance would increase the total loan amounts for this project to \$17 million.

Mr. Baker told the County Council that Ordinance No. 1665 was adopted on March 9, 2004 authorizing the issuance of \$16 million in general obligation bonds for the project. Since that time, the County has determined to purchase additional spray land and the purchase requires the

County to acquire additional funds in order to complete the project. The total cost of the project is expected to be \$29.6 million.

Introduction of Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE AMENDING ORDINANCE NO. 1665 AND AUTHORIZING THE ISSUANCE OF AN ADDITIONAL \$1,000,000 GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE EXPANSION OF THE INLAND BAYS REGIONAL WASTEWATER TREATMENT FACILITIES AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”. The Proposed Ordinance will be advertised for Public Hearing on July 20, 2004.

Introduction of Proposed Ordinance (continued)

Old Business/ C/Z No. 1538/ Rebay, LLC The County Council discussed 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 - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1538) filed on behalf of Rebay, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on May 6, 2004 at which time they deferred action. On June 10, 2004 they recommended that the application be approved with conditions.

The County Council held a Public Hearing on this application on May 25, 2004 at which time they deferred action.

Mr. Griffin reported to Council that the developer sent a letter to the senior center saying that they will transfer six acres to them, which is an additional two acres.

Mr. Cole referred to the applicant’s request for 617 units and the condition recommended by the Planning and Zoning Commission that the number of units be reduced to 562. Mr. Cole asked if there was a consensus of the County Council to further reduce the density of the project to make it more compatible with the area. There was no consensus among the County Council members.

M 394 04 Establish Density for C/Z No. 1583 A Motion was made by Mr. Phillips, seconded by Mr. Jones, to permit a density of 617 units for the project (Change of Zone No. 1538) filed on behalf of Rebay, LLC.

Motion Adopted: 3 Yea, 2 Nay.

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

**M 395 04
Adopt
Ordinance
No. 1700
(C/Z
No. 1583)**

**M 395 04
(continued)**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1700 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 - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 180.60 ACRES, MORE OR LESS” (Change of Zone No. 1538) filed on behalf of Rebay, LLC, with the following conditions:

- 1. The maximum number of residential units shall not exceed 617 units as follows: 310 Single Family Lots and 307 Multi-Family or Townhouse Units.**
- 2. There shall not be any multi-family or townhouse units within 300 feet of the Henlopen Keys development.**
- 3. The reference to “County Service Area” must be deleted from the final site plan.**
- 4. Site plan review shall be required for each phase of development.**
- 5. All entrance, intersection, interconnection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT’s requirements, or in accordance with any further modifications by DelDOT.**
- 6. Recreational facilities and amenities shall be constructed and open to use by residents of the development within two years of the issuance of the first building permit.**
- 7. The development shall be served as part of the West Rehoboth Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.**
- 8. The MR-RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 9. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices (BMPs).**
- 10. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include sidewalks on both sides of the streets and street lighting.**
- 11. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**
- 12. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.**
- 13. The applicant shall cause to be formed a homeowners or condominium association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.**
- 14. State wetlands shall not be included in any individual lots. Federal and**

	<p>State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permit.</p> <p>15. No piers, docks, boat ramps, or other water related recreational facilities shall be permitted.</p> <p>16. The proposed senior center, based on the testimony by the applicant and supporters of the project, shall be located on at least six acres of land and shall be on the west side of the connector road. It shall include parking in accordance with County requirements for a large-scale center such as the one proposed for a capacity of at least 500 people, as stated during the public hearing. This parking shall be shown on the final site plan.</p> <p>17. There shall be no commercial uses in the project, including the area adjacent to Sandalwood, with the limited exception of a sales facility for the duration of the development of the project and located within the project east of the connector road and not adjacent to Sandalwood.</p> <p>18. Only townhouse-design buildings or single-family units shall be located adjacent to the existing pond between this project and Canal Corkran.</p> <p>19. Any residential uses between Sandalwood and the Connector Road, also known as Hebron Road, shall be limited to single family lots.</p> <p>20. Addressing and street naming shall be reviewed and approved by the Sussex County Mapping and Addressing Division.</p>
	<p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Nay;</p>
Reasons for Mr. Cole's Vote	<p>Mr. Cole stated that he is opposed to the project since there is not adequate infrastructure; since the density is excessive; since there is a glut of townhouses along Route One and townhouses are changing the character of the area; and since the project is not environmentally sensitive.</p>
Suspend Vote for Additional Information	<p>Mr. Dukes called on Michael Izzo, County Engineer, to comment on the availability of infrastructure for the project. Mr. Izzo responded that it is normal procedure that the Engineering Department responds to these issues in writing prior to the Public Hearing and that it is his expectation that there weren't any particular problems relating to this particular project.</p>
Rules of Order	<p>Mr. Cole stated that the County Council's rules of order do not permit a vote to be stopped for the purpose of receiving additional information. Mr. Dukes disagreed.</p>
Request for Opinion	<p>Mr. Cole asked that the County Attorney provide an opinion on whether stopping a vote for additional information complies with the County Council's rules of order.</p>
M 395 04 Vote (continued)	<p>Vote by Roll Call: Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea (continued)</p> <p>Motion Adopted: 4 Yea, 1 Nay</p>
West	<p>Mr. Izzo, County Engineer, reported on the bid results for Sussex County</p>

Complex Parking Lot Overlay Project/ Bid Results West Complex Parking Lot Overlay Project/ Bid Results (continued)	Project No. 02-05, West Complex Parking Lot Overlay, as follows:	
	Jerry's Inc.	
	Milford, Delaware	\$54,674.30
	P & A Engineering	
	Delmar, Delaware	\$55,990.25
	Del-Mar-Va Paving Co., Inc.	
	Seaford, Delaware	\$59,575.60
	A. P. Croll & Son, Inc.	
	Georgetown, Delaware	\$72,867.00
	Ralph Cahall & Son Paving, Inc.	
	Smryna, Delaware	\$84,394.00
	George & Lynch, Inc.	
	Dover, Delaware	\$87,108.50
	Engineer's Estimate	\$73,849.69

**M 396 04
Award
Bid/
West
Complex
Parking
Lot
Overlay
Project**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 02-05, West Complex Parking Lot Overlay, be granted to Jerry's Inc. at the bid amount of \$54,674.30.

Motion Adopted: 5 Yea.

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

**Beachhaven
Condo-
minium
Association
Request**

Mr. Archut, Assistant County Engineer, informed the County Council that the Engineering Department was contacted by the Beachhaven Condominium Association requesting assistance from the County in buying out Utility Systems Inc. (USI) so that they can operate and maintain the system on their own. They have indicated that they can buy out USI for a price of \$55,000 and that a loan from the County would allow them to buy out USI, have the violations corrected, and provide for proper ongoing maintenance.

Mr. Archut reported that USI abandoned their on-site treatment facility in 1996 and connected to the County's sewer system; however, they still maintain the internal collection system, which consists of the pipelines and the individual septic systems serving each building. USI has a 20-year contractual agreement to serve the condominiums, which are located in the West Rehoboth Expansion Area

Mr. Archut told the County Council that the residents of Beachhaven are concerned about the environmental hazards of the wastewater system and

they recognize the system upgrades that are needed. The owners and the officers of Beachhaven Condominiums have stated that their plans are to improve the operating conditions of the sewage disposal system.

Mr. Archut reviewed the following proposed loan conditions:

- Beachhaven
Condo-
minium
Association
Request
(continued)**
- Sussex County would make an internal loan to the Beachhaven Condominium Project (Buildings A, B and C) not to exceed \$70,000. This would cover the cost of the USI buyout (\$55,000) by Sussex County and allow funds for certain improvements (\$15,000).
 - Units in Buildings A, B and C would lose the “subdistrict” status and the front foot assessment rate would increase by approximately \$2.65 per front foot per year. This would increase the quarterly bill to each unit by \$26.50 for an annual increase of \$106.00. All units will therefore pay the same front foot assessment charge as other users in the West Rehoboth Expansion Area, who are not in a subdistrict.
 - Sussex County would make all remaining capital improvements (as we understand them) outlined in your letter (Attachment A) with the exception of the demolition or restoration of the building or its contents.
 - The Homeowners Association will own all pipelines and associated facilities (i.e. septic tanks and buildings) on the Association’s property and will execute an agreement for their maintenance and operation and be responsible for long term pumping of the septic tanks.
 - These conditions are subject to the approval of the Sussex County Council and confirmation by the County Attorney that the USI contract is only cancelable by USI. This proposal will be presented to the Sussex County Council on June 29, 2004.

Bill Auxer and Brian Nichols of Beachhaven were present and stated that on June 19th a Homeowners Association meeting was held. At that meeting, seventy-five percent of the homeowners of Beachhaven cast votes and the vote was unanimous in support of the proposal. Mr. Nichols told Council that they plan to extend the pipeline to the County sewer lines; that they will remove the holding tanks; and that eventually, a direct connection will be made to the County’s sewer system.

Mr. Archut noted that the County would facilitate the buy-out of the contract with Utility Systems, Inc.

- M 397 04
Approve
Internal
Loan to
Beachhaven
Condo-
minium
Association**
- A Motion was made by Mr. Phillips, seconded by Mr. Jones, that an internal loan in an amount up to \$70,000 is hereby approved for the buy-out of the Utility Systems Inc. contract and other work for the Beachhaven Condominiums.
- Motion Adopted:** 5 Yea.
- Vote by Roll Call:** Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;

Mr. Dukes, Yea

**Delta
Airport
Con-
sultant
Agreement
Delta
Airport
Con-
sultant
Agreement
(continued)**

Mr. Sapp, Project Engineer, reported that the Economic Development Office has four clients that wish to build a corporate hangar at the Sussex County Airport. Mr. Sapp further reported that in conjunction with the Land Use Plan, a site has been designated for the four new hangars, southwest of the new terminal building.

Mr. Sapp presented an amendment to a contract with Delta Airport Consultants, Inc. which will allow Delta to design and bid a taxiway and apron so that the four hangars can have access to the main taxiway. He noted that the taxiway and apron are FAA grant eligible and 2 1/2 percent additional funding would be provided by the State. The County will only be required to fund 2 1/2 percent of the original contract.

**M 398 04
Approve
Amend-
ment to
Delta
Airport
Con-
sultant
Agreement**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 2 to the contract between Delta Airport Consultants and Sussex County to design and bid an Apron and Taxiway to service the four new corporate hangars at the Sussex County Airport for a lump sum of \$51,612.00.

Motion Adopted: 5 Yea.

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

**Grant
Requests**

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

**M 399 04
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 from Mr. Cole's Councilmanic Account to the Rehoboth Beach Film Society for the Seventh Annual Rehoboth Beach Independent Film Festival.

Motion Adopted: 5 Yea.

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

**M 400 04
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 from Mr. Phillips' Councilmanic Account, \$250.00 from Mr. Cole's Councilmanic Account, and \$250.00 from Mr. Rogers' Councilmanic Account) to the Millsboro Chamber of Commerce for the Big Thursday Festival and Car Show.

Motion Adopted: 5 Yea.

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

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

M 401 04 Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Account) to the Delaware Safe Kids Coalition for Sussex County Safe Kids Day.**

M 401 04 Council- **Motion Adopted: 5 Yea.**
manic

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

M 402 04 Council- **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give**
manic **\$1,000.00 (\$250.00 each from Mr. Dukes', Mr. Jones', Mr. Phillips', and**
Grant **Mr. Rogers' Councilmanic Accounts) to the Dagsboro Church of God for**
 the "Celebration of our Nation" event.

Motion Adopted: 5 Yea.

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

Public **Mr. Dan Kramer spoke in reference to House Bill No. 529 regarding**
Comments **setbacks on Route One and regarding regulations that do not allow the**
 posting of political signs until 90 days prior to an election.

M 403 04 Direct **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to direct the**
County **County Attorney to provide an opinion on the County Council's voting**
Attorney **process and more specifically, on whether a vote can be interrupted for**
to Provide **additional testimony.**
Opinion/

Motion Adopted: 3 Yea, 2 Nay.

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

M 404 04 Recess **A Motion was made by Mr. Jones, seconded by Mr. Rogers, to recess until**
 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene **Mr. Dukes called the County Council back into session at 1:38 p.m.**

Public **A Public Hearing was held on the Proposed Ordinance entitled "AN**
Hearing **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
(C/U **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT**
No. 1541) **STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND**
 LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY,

CONTAINING 6.44 ACRES OF A 26.13 ACRE TRACT” (Conditional Use No. 1541) filed on behalf of James B. Walsh.

The Planning and Zoning Commission held a Public Hearing on this application on June 10, 2004 at which time they deferred action. On June 24, 2004, the Commission recommended that the application be denied.

**Public
Hearing
(C/U
No. 1541)
(continued)**

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

(See the minutes of the Planning and Zoning Commission dated June 10 and June 24, 2004 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

The County Council found that James B. Walsh was present on behalf of his application. He stated that he proposes a boat storage facility; that there will be a 200 foot wooded area surrounding the activity which will hide it from the neighbors’ view; that the only people moving boats to and from the site would be himself or employees; that there will be no public access to the site; that a gate will be installed with access by way of a “credit card” system; that no buildings will be erected on the site; that he will fence the entire 6.44 acres; that he does not want the site lighted; that the parking lot will be grass; and that he has no objection to planting additional buffers.

It was noted that the project would require a commercial entrance approval from DelDOT.

Public comments were heard. Mark Leishear and John Doerfler spoke in opposition to the project. They stated that the applicant purchased the property on the speculation that he would get a zoning change for boat storage; that traffic on Coolspring Road is already heavy; that the proposed use would be a fire hazard since the site is wooded and the area is quite a distance from fire houses; that there are environmental concerns since fluids from the boats could seep into the ground and contaminate the soil and drinking water; that the boat yard would be a boat “grave” yard; and that the area should remain agricultural and residential.

The Public Hearing was closed.

**M 405 04
Adopt
Proposed
Ordinance
(C/U
No. 1541)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 6.44 ACRES OF A 26.13 ACRE TRACT” (Conditional Use No. 1541) filed on behalf of James B. Walsh.

Motion Denied: 5 Nay.

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

**Public
Hearing
(C/Z
No. 1540)**

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.9 ACRES, MORE OR LESS” (Change of Zone No. 1540) filed on behalf of Louis J. Travalini, Sr.

The Planning and Zoning Commission held a Public Hearing on this application on June 10, 2004 at which time they recommended that the application be denied. The Commission further recommended that the application fee be waived if the applicant chooses to apply for a Conditional Use.

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

(See the minutes of the Planning and Zoning Commission dated June 10, 2004 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

The County Council found that Louis Travalini, Sr. was present and stated that he proposes to develop the site with a sales office and model homes; that his original application was for the full 2.9 acres; that his plan has been revised to eliminate the 1.9 acres of wetlands and to request the rezoning of only the 1.02 acres of uplands; that the proposed access to the property is on Road 346; that three model homes currently existing on the site and one additional model home is proposed; that the model homes are Beracah Homes in Greenwood; and that the homes are strictly for display and not for sale.

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

**M 406 04
Adopt
Proposed
Ordinance
(C/Z
No. 1540)**

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 AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.9 ACRES, MORE OR LESS” (Change of

Zone No. 1540) filed on behalf of Louis J. Travalini, Sr.

Motion Denied: 5 Nay.

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

**M 407 04
Permit
Applicant
to Reapply
and
Authorize
Waiving
the Appli-
cation
Fee**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to permit the applicant to reapply under the conditional use permit process, to waive the application fee, and to direct County Administration to expedite the public hearing process for the conditional use application, if possible.

Motion Adopted: 5 Yea.

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

**Amend
Motions/
Appoint-
ments to
Board**

Mr. Stickels announced that the terms of the Library Advisory Board appointments that were made during the morning session of the meeting were incorrect. In accordance with regulations, Library Advisory Board appointments are to be for a term of three years. He noted, however, that the appointment of Sherrill Christian should be for a term of two years since she is completing the term of Michelle Roenke.

**M 408 04
Amend
Motions/
Terms of
Office/
Library
Advisory
Board**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to amend the Motions relating to appointments to the Library Advisory Board as follows: Luray McClung for a term of three years; Dennis Hughes for a term of three years; and Sherrill Christian for a term of two years.

Motion Adopted: 5 Yea.

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

**M 409 04
Adjourn**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to adjourn at 2:30 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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