



Sussex County Council Agendas & Minutes

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

Call to Order The regular meeting of the Sussex County Council was held Tuesday, July 20, 2004, at 10:15 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

Moment of Silence A Moment of Silence was observed for Cpl. Christopher M. Shea of the Delaware State Police who lost his life in an auto accident while on duty Sunday, July 18, 2004.

The Invocation and the Pledge of Allegiance were led by Mr. Dukes.

M 410 04 Approve Agenda A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the Agenda of July 20, 2004.

Motion Adopted: 5 Yea.

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

M 411 04 Approve Minutes A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the minutes of June 15, 2004.

Motion Adopted: 5 Yea.

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

M 412 04
Approve
Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the minutes of June 29, 2004.

Motion Adopted: 5 Yea.

M 412 04
(continued)

**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:

JUANITA J. MORCH, EXECUTIVE DIRECTOR, CAPE HENLOPEN SENIOR CENTER, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of the County Council passing the Rebay, LLC project, which included six acres for the new Cape Henlopen Senior Center.

SUSAN MAYER, RONALD MCDONALD HOUSE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of the County Council's agreement to provide financial support for the Ronald McDonald House of Delaware.

AMERICAN CANCER SOCIETY, WASHINGTON, DC.

RE: Letter in appreciation of the County Council's recent gift of \$1,000.00 through Relay for Life.

LARRY ODEITE, BETHANY BEACH, DELAWARE.

RE: Letter commending County employee, Dean Malloy of the Planning and Zoning Department.

EDWIN B. SCHIMLER, JR., THE GREENS AT INDIAN RIVER, DAGSBORO, DELAWARE.

RE: Letter regarding the proposed expansion to the Holts Landing Sanitary Sewer District to include Seagrass Plantation and The Preserve at Irons Lane.

M 413 04
Adopt
Procla-
mation

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proclamation entitled "PROCLAIMING TUESDAY, JULY 13, 2004 AS "KIMMEYTOWN REVITALIZATION DAY".

Motion Adopted: 5 Yea.

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

M 414 04

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt the

Tribute commending Joe Deloach for his dedication to public safety for twenty-five years as Patrolman and Chief of the Town of South Bethany Police Department.

Motion Adopted: 5 Yea.

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

Mr. Phillips presented the Proclamation to Chief Deloach. Mayor Gary Jayne of South Bethany was also present.

Mr. Stickels informed the County Council of terms that have expired on the Planning and Zoning Commission and the Board of Adjustment.

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to reappoint Robert Wheatley to the Planning and Zoning Commission for a term of 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**

Mr. Dukes recognized Lieutenant Governor John Carney who was in attendance. (Earlier in the morning in front of the County Administrative Office Building on The Circle in Georgetown, Lt. Governor Carney announced his intention to seek reelection for a second term.)

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to reappoint John Mills to the Board of Adjustment for a term of 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**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to reappoint Dale Callaway to the Board of Adjustment for a term of 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

M 418 04
Board of
Adjustment
Appoint-
ment

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to reappoint Jeff Hudson to the Board of Adjustment for a term of three years.

Motion Adopted: **5 Yea.**

M 418 04
(continued)

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

Vacancy/
P&Z
Commission

Mr. Stickels reminded the Councilmembers that Ronald Lynch has decided that he does not wish to continue to serve on the Planning and Zoning Commission and that an appointment needs to be made to fill the resulting vacancy.

M 419 04
Community
Investments
for
FY 2005

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$1,000.00 to Sussex Academy of Arts & Sciences PTO from “Community Investments for FY 2005 – District 5 – Councilman Phillips”.

Motion Adopted: **5 Yea.**

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

Wastewater
Agreements

Mr. Stickels presented Agreements for approval relating to the construction of wastewater facilities in The Refuge at Dirickson Creek – Phase IV.

M 420 04
Approve
Wastewater
Agreements
for The
Refuge at
Dirickson
Creek

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 371, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bunting-Gray, LLC for wastewater facilities to be constructed in The Refuge at Dirickson Creek – Phase IV, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: **5 Yea.**

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

Adminis-
trator's
Report

Mr. Stickels submitted his Administrator's Report:

1. **Receipt of Vehicle from Delaware Emergency Management Agency (DEMA)**

The Paramedic Department has received a 2004 Ford Excursion from DEMA as part of a Federal program to improve State and local government terrorism preparedness.

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

The new vehicle will be assigned as the Hazardous Materials Medical Team (Haz-Med) Duty Officer vehicle. The Haz-Med Duty Officer responds to all haz-mat incidents in Sussex County to serve as a resource to local fire officials, provide expertise regarding the medical consequences of specific hazardous agents, and assess the need for the decontamination trailer and other resources. This officer also responds as needed to mass- and multiple-casualty incidents within the County.

The transfer of this vehicle to Sussex County EMS is also part of a plan that will place a new medical resource unit (MRU) in Sussex County. The trailer-based unit is designed to support local response to mass-casualty incidents, containing sufficient medical supplies to enable us to handle a large-scale incident until other State and Federal resources can be brought to the site.

I am pleased to inform the Council that the Frankford Volunteer Fire Company has offered to house the MRU at their station and to provide a vehicle to tow it to an emergency site. Part of the mission of the new Ford Excursion is to serve as a backup should Frankford be unable to tow the MRU for any reason.

I would like to thank James E. Turner III, the Director of DEMA, for his efforts toward providing this resource for us.

**New
Bank
Accounts**

Mr. Baker reviewed information relating to the opening of five checking accounts at Delaware National Bank. Mr. Baker reviewed a memorandum from William Townsend, Internal Auditor, wherein he reported that four banks were contacted in regard to the new accounts and that responses were received from all four banks. Based on the information received, Mr. Townsend recommended that the County open the three new interest bearing checking accounts at Delaware National Bank where the interest rate received will be 1.53 percent, with the Municipal Sweep Checking Account, with a \$1.00 minimum balance in each account, with no service charges, and free checks. Further, he recommended that the two non-interest bearing checking accounts be opened at Delaware National Bank since the accounts will be free of service charges and the checks will be free.

**M 421 04
Adopt
Resolution
R 018 04**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Resolution No. R 018 04 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE NATIONAL BANK BEARING THE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE

PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL”.

Motion Adopted: 4 Yea, 1 Abstention.

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

**Public
Hearing/
Authorizing
Issuance of
General
Obligation
Bonds**

A Public Hearing was held on 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”.

Mr. Baker explained that the proposed ordinance authorizes 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 amount 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.

Public comments were heard. Dan Kramer questioned why the County does not use its “surplus money” for the project instead of borrowing more money. Mr. Stickels responded that there is no cost to the taxpayers of the County and that the costs will be paid for by the users of the sanitary sewer districts.

The Public Hearing was closed.

**M 422 04
Adopt
Ordinance
No. 1701**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1701 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’.

Motion Adopted: 5 Yea.

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

**Public
Hearing/
Proposed
Ordinance
Relating
to Parking
Spaces and
Zones for
Persons
with
Disabilities**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO IMPLEMENT HOUSE BILL NO. 172 PASSED BY THE DELAWARE GENERAL ASSEMBLY IN SESSION 2003 AND WHICH REQUIRES THE ADOPTION OF COUNTY ORDINANCE TO ADDRESS THE DUTY OF INDIVIDUALS AND ARTIFICIAL ENTITIES TO ERECT AND MAINTAIN SIGNAGE ON PARKING SPACES AND ZONES FOR THE USE OF PERSONS WITH DISABILITIES”.

Mr. Griffin reviewed the purpose of the Proposed Ordinance, which is to ensure compliance with the Architectural Accessibility Chapter of the Sussex County Code (Section 45.8), and in particular those provisions relating to the designation of parking spaces and zones for persons with disabilities. (Section 45-9 is to be enacted as directed by the General Assembly in House Bill No. 172, which was signed into law on July 3, 2003.) Mr. Griffin noted that the Proposed Ordinance provides an enforcement section to existing requirements.

Mr. Griffin explained that the Proposed Ordinance requires all counties and towns to implement the adoption of the House Bill by amending their own ordinances to address the duty of individuals and companies to erect and maintain signage on parking spaces and zones for use by people with disabilities. The County’s Ordinance would apply to the unincorporated portions of the County.

It was noted that the Ordinance would be enforced by the County Constable’s Office and that it would be a complaint-driven process. It was further noted that an enforcement policy should be written for the Constable’s Office.

Mr. Cole expressed concern about existing commercial activities in the County not being able to comply with the new regulations and that they should be grandfathered.

Mr. Kautz, Land Use Planner, noted that compliance for new construction is easily addressed. He explained the current process: handicapped spaces are looked for on a submitted site plan and inspected by the building inspector. If there is non-compliance at that time, the building cannot be occupied.

Public comments were heard. Dan Kramer asked the County Council not to pass the Proposed Ordinance. He commented that there is a lot of abuse

taking place in regards to handicapped parking.

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

Public
Hearing
(continued)

It was the consensus of the County Council to defer action for two weeks on the Proposed Ordinance entitled “AN ORDINANCE TO IMPLEMENT HOUSE BILL NO. 172 PASSED BY THE DELAWARE GENERAL ASSEMBLY IN SESSION 2003 AND WHICH REQUIRES THE ADOPTION OF COUNTY ORDINANCE TO ADDRESS THE DUTY OF INDIVIDUALS AND ARTIFICIAL ENTITIES TO ERECT AND MAINTAIN SIGNAGE ON PARKING SPACES AND ZONES FOR THE USE OF PERSONS WITH DISABILITIES” to allow time for the preparation of an enforcement policy.

Public
Hearing/
Holts
Landing
SSD
Expansion/
Sea Grass
Plantation
and The
Preserve
at Irons
Landing

A Public Hearing was held to consider extending the Holts Landing Sanitary Sewer District (HLSSD) to include two new subdivisions, the Seagrass Plantation and The Preserve at Irons Landing subdivisions.

Mr. Archut, Assistant County Engineer, reported that the proposed annexation also includes 13 parcels, which are privately owned lots fronting on Indian River Bay (Bennett Beach). He reported that the property owners were surveyed regarding their interest in being included in the extension of the HLSSD. The survey results were as follows: 10 Yes. 0 No. 2 No Response. Total surveyed – 12. (One property owner owns two properties.)

Mr. Archut noted that he has received a request from the property owners of Mallard Creek requesting estimates to provide sewer service to them. Mr. Archut explained that he believed the cost estimates should be provided to them prior to including them in a sewer district. He noted that the proposed HLSSD extension would provide a connection point to the subdivision.

Mr. Archut read a letter into the record from Edwin B. Schimler, Jr. (It was noted that Mr. Schimler does not live in the proposed sewer district.)

Public comments were heard.

Steve Conway, representing the Bennetts Beach Mobile Home Park, asked that the proposed expansion be delayed until litigation regarding the mobile home park (consisting of 91 acres) has been concluded; that a mobile home park does exist even though the survey for the sewer system shows the land as vacant.

Mr. Griffin responded that it did become clear through the Public Hearing that the lots do exist and the County proposes to serve them.

William Hoops, a leaseholder at Bennetts Beach Mobile Home Park, stated that none of the tenants at the Mobile Home Park has ever been surveyed;

and therefore, the application is inaccurate. He also asked the County Council to postpone or deny a decision on the proposed expansion until the litigation has been concluded.

Public
Hearing/
Holts
Landing
SSD
Expansion/
Sea Grass
Plantation
and The
Preserve
at Irons
Landing
(continued)

Thomas Belk of Bennetts Beach stated that the proposed costs are unjust; that the impact fee will be \$4,200.00; that he is going to be paying \$195.00 to have the sewage taken care of; that taxes are going to be \$200.00 more; that he can have his system pumped out for \$180.00 per year; that he knows that the service can be subsidized by the federal government in the amount of 80 percent; and that he knows this because his son is an engineer and a project in New Jersey received 80% federal funding.

Don Dedsey, a Bennetts Beach property owner, expressed concern about the \$4,200.00 fee that is proposed; he questioned whether the developer is paying the same amount of money; he questioned whether federal, state or county financial aid has been looked at for the Bennetts Beach homeowners; and he asked that restrictions be placed on the developer to construct lines back to Bennetts Beach. Mr. Dedsey stated that he supports the extension of the sewer district.

Jim Ponzio, a Bennetts Beach property owner, stated that he is a year-round resident and he is in favor of extending the sewer district.

Janice Belk commented further on her husband's (Thomas Belk) comments, Thomas Belk. She stated that she is aware of the conversation her husband had with their son and that she wants the record to show that their son works for Hill International of Cherry Hill, New Jersey and that she can obtain the information regarding federal funding and submit it to the County Council.

Mr. Archut stated that the developer will be required to provide laterals to the 13 properties at Bennetts Beach and that they will pay the same fees as other people in the Holts Landing Sanitary Sewer District. Mr. Archut emphasized that all property owners in the sewer district will pay the same impact fee. He noted that the only exception would be if the developers build regional infrastructure (oversized, deeper lines, etc.) that is eligible for credits.

Mr. Cole expressed concern that the developer was not in attendance and that the County should require the developer to attend a Public Hearing on an annexation request.

The Public Hearing was closed.

M 423 04
Adopt
Resolution
R 019 04

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Resolution No. R 019 04 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE HOLTS LANDING SANITARY SEWER DISTRICT (HLSSD) TO INCLUDE THE SEAGRASS PLANTATION AND PRESERVE AT IRON'S LANDING SUBDIVISIONS, THAT ARE

CONTIGUOUS TO THE HLSSD, SITUATE NORTHWEST OF THE TOWN OF MILLVILLE, SOUTH OF THE INDIAN RIVER BAY AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 4 Yea, 1 Abstention.

M 423 04
(continued) **Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Abstained;**
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

Holts
Landing
SSD/
Pump
Station
Upgrades **Mr. Archut, Assistant County Engineer, presented a proposal to grant Substantial Completion for a project that David A. Bramble, Inc. has completed for Bay Colony and Holts Landing. The project was for upgrading one pumping station and replacing another pumping station. He noted that the station is operating and all the major work items have been completed and the County is running the system. Mr. Archut noted that the County’s consultants recommended Substantial Completion effective on February 27, 2004. Mr. Archut also asked the County Council to provide the option of allowing the County Engineer to reduce the retainage, if necessary, since a few punch list items are still outstanding.**

M 424 04
Grant
Substantial
Completion/
Holts
Landing
SSD/
Pump
Station
Upgrades **A Motion was made by Mr. Jones, seconded by Mr. Rogers, based upon the recommendation of Sussex County’s Consulting Engineering, Whitman, Requardt & Associates, and the Sussex County Engineering Department, that the Sussex County Council grants Substantial Completion, effective February 27, 2004, to David A. Bramble, Inc., for Sussex County Project No. 99-10, Holts Landing Pumping Station Upgrades, and will allow a reduction in retainage if warranted in the opinion of the County Engineer.**

Motion Adopted: 5 Yea.

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

Cedar
Neck
SSD/
Contract
C/
Change
Orders/
Sandy
Cove
Road
Collection
and **Mr. Izzo, County Engineer, reported on Change Order Nos. 2 and 3 for Contract C of the Cedar Neck Sanitary Sewer District Project with American Paving. Change Order No. 2 is for a paving upgrade (to hot mix) for the Cedar Crest Subdivision in the amount of \$7,002.45. These funds will be reimbursed by the Delaware Department of Transportation by way of funds from Representative Hocker. Change Order No. 3 is for a paving upgrade for Bay Shore Trailer Park. He noted that at the time the contract was bid, the roads were tar and chip. After the contract was awarded and executed, Mr. Elmer Cox, the park owner, had the roads upgraded with 3-inch hot mix which put the County in the position of having to replace the hot mix after the sewer lines were installed. The cost of the hot mix restoration is \$29,578.20. Mr. Izzo reported that he anticipates a balancing**

Conveyance **change order on the contract in the credit amount of approximately \$50,000.**

M 425 04 **A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the**
Approve **recommendation of the Engineering Consultants, Whitman, Requardt and**
Change **Associates, LLP, and the County Engineering Department, that Change**
Orders **Order Nos. 2 and 3 for Sussex County Project No. 99-12C, Sandy Cove**
 Road Collection and Conveyance, be approved in the amounts of \$7,002.45
 and \$29,578.20 respectively, which increases the contract total to
 \$2,905,268.70, contingent upon the approval of the Delaware Department of
 Natural Resources and Environmental Control and the Rural Utility
 Service.

M 425 04
Approve
Change
Orders/
Contract
C/ Cedar
Neck
SSD
(continued)

Motion Adopted: 5 Yea.

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

Joy Beach **Mr. McCabe, Director of Public Works, reported that bids were received**
Suburban **for Sussex County Project No. 04-01, Joy Beach Suburban Community**
Community **Improvement Project. The project consists of a 3-inch hot mix pavement**
Improve- **overlay of the existing Joy Beach Subdivision streets. Mr. McCabe**
ment **reported that the low bid was received from Jerry's Paving, Inc. in the**
Project/ **amount of \$152,625.70. Mr. McCabe explained that the project includes the**
Bid **entire interior of the community. He noted that there is a dispute regarding**
Award **the ownership of Route 279B; that at one time the community asked the**
 State to take it over; and that DelDOT has now granted a portion of the
 road back to the community. For this reason, the portion of Route 279B out
 to the Bay that is inside the Joy Beach Community will be included in the
 project.

M 426 04 **A Motion was made by Mr. Jones, seconded by Mr. Cole, based upon the**
Award **recommendation of the Sussex County Engineering Department, that**
Project/ **Sussex County Project No. 04-01, Joy Beach Suburban Community**
Joy **Improvement Project, be awarded to the lowest responsible bidder, Jerry's**
Beach **Paving, Inc. of Milford, Delaware, at the bid amount of \$152,625.70.**
Suburban
Community

Improve-
ment

Motion Adopted: 4 Yea, 1 Absent.

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

(Mr. Phillips was out of the room during the vote.)

Andre **Mr. McCabe introduced Andre Roach, a summer intern who has been**
Roach/ **interning with the County for two years. Mr. Roach is assisting with the**
Summer **suburban roads projects. He is a senior architecture student at Hampton**

- Intern** **University and a native of Georgetown.**
- Grants** **Mr. Stickels presented grant requests for the Councils consideration.**
- M 427 04** **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$650.00**
Council- **(\$400.00 from Mr. Jones' Councilmanic Account, \$150.00 from Mr. Dukes'**
manic **Councilmanic Account, and \$100.00 from Mr. Phillips' Councilmanic**
Grant **Account) to the Bridgeville Apple-Scrapple Festival for the 2004 Festival.**
M 427 04 **Motion Adopted: 4 Yea, 1 Absent.**
(continued)
- Vote by Roll Call: Mr. Phillips, Absent; Mr. Cole, Yea;**
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea
- (Mr. Phillips was out of the room during the vote.)**
- M 428 04** **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$500.00**
Council- **from Mr. Jones' Councilmanic Account to the Greenwood Volunteer Fire**
manic **Company No. 1, Incorporated for the purchase of a SafeHouse.**
Grant
- Motion Adopted: 5 Yea.**
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea
- M 429 04** **A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$500.00**
Council- **from Mr. Dukes' Councilmanic Account to the Town of Blades for the**
manic **Blades Police Department's "Cops Night Out".**
Grant
- Motion Adopted: 5 Yea.**
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea
- Introduction** **Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE**
of a **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Proposed **AGRICULTURAL RESIDENTIAL DISTRICT FOR MODEL HOME**
Ordinance **DISPLAY AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL**
OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX
COUNTY, CONTAINING 1.02 ACRES, MORE OR LESS, OF A 2.90
ACRE TRACT" (Conditional Use No. 1591) filed on behalf of Louis J.
Travalini, Sr. The Proposed Ordinance will be advertised for Public
Hearing.
- Introduction** **Mr. Jones introduced a Proposed Ordinance entitled "AN ORDINANCE**
of a **TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX**
Proposed **COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN**

Ordinance **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 18.76 ACRES, MORE OR LESS” (Change of Zone No. 1566) filed on behalf of Barbara Chevallier Bailey. The Proposed Ordinance will be advertised for Public Hearing.**

Fine **Mr. Stickels announced that he has asked Mr. Griffin to review the**
Structure **County’s fine structure.**
M 430 04 **At 12:35 p.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to**
Recess **recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **Mr. Dukes called Council back into session at 1:35 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 A PROPANE**
No. 1543) **SERVICE AND REFILLING CENTER WITH AN OFFICE AND**
 SHOWROOM TO BE LOCATED ON A CERTAIN PARCEL OF LAND
 LYING AND BEING IN INDIAN RIVER, HUNDRED, SUSSEX
 COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS” (Conditional
 Use No. 1543) filed on behalf of Heritage Operating, L.P.

The Planning and Zoning Commission held a Public Hearing on this application on June 24, 2004 at which time they deferred action. On July 8, 2004 the Commission discussed this application under Old Business and recommended approval, with conditions.

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 24 and July 8, 2004 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

The County Council found that James F. Waehler, Attorney; William Smith, Local District Manager, Paradee Gas Company; and Andrew Smith Vice President, Plant Design and Construction, Paradee Gas Company, were present on behalf of the application. They told Council that Paradee Gas Company is owned by Heritage Operating, L.P.; that Heritage proposes to erect an office, showroom, parts warehouse, underground earth mounded propane bulk storage and distribution plant; that they propose a retention supply pond on the property; that they propose two 30,000 gallon tanks and a future third tank and a repair shop; that all tanks shall be contained within the rear yard; that there are numerous commercial uses in the area; that they plan to have six employees working at the site; that the parcel backs up to lands owned by the Nature Conservancy; that the proposed project will reduce truck time on the roads; and that the project

will be a safe, state-of-the-art facility.

Mr. Waehler stated that the applicant is generally in agreement with the conditions proposed by the Commission; however, he would like to clarify the fencing requirement. He stated that the applicant proposes that the fence start at the rear of the main building and run to the rear of the property and that fencing would be placed inside of the landscaping.

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

M 431 04
Adopt
Ordinance
M 431 04
Adopt
Ordinance
No. 1702

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1702 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROPANE SERVICE AND REFILLING CENTER WITH AN OFFICE AND SHOWROOM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER, HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS” (Conditional Use No. 1543) filed on behalf of Heritage Operating, L.P., with the following conditions:

1. On-site water and septic shall be provided.
2. The hours of operation for the trucking operation shall be from 6:30 a.m. until 6:00 p.m., Monday through Saturday, except for emergencies.
3. Security lighting shall only be installed on the buildings and shall be downward illuminated and directed away from Route 24 and neighboring properties.
4. The site plan shall be subject to approval of the Planning and Zoning Commission.
5. One unlighted sign shall be permitted on-site, not to exceed 32 square feet per side or facing.
6. Chain-link fencing shall be installed 30 feet from the side and rear property lines to the rear of the proposed office and showroom. All storage tanks shall be contained within the rear yard and shall be set back at least 500 feet from Route 24.
7. A 30 foot vegetated buffer shall be established around the perimeter of the property and no existing trees within the buffer area shall be disturbed.
8. No parking shall be located within 5 feet of any side property lines.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/U
No. 1544)

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 DOCTORS OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND

LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 7.34 ACRES, MORE OR LESS” (Conditional Use No. 1544) filed on behalf of Charles D. Murphy Associates, Inc.

**Public
Hearing
(C/U
No. 1544)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on June 24, 2004 at which time they deferred action. On July 8, 2004 the Commission discussed this application under Old Business and recommended approval, with conditions.

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 24 and July 8, 2004 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Griffin questioned why Charles D. Murphy Associates, Inc. was named as the applicant and not Center for Neurology Properties. Mr. Lank responded that that is the way it was applied for and introduced.

The County Council found that Dr. Robert Varipappa, Managing Partner for CNMRI, a group of physicians of neurology and medicine rehab, was present on behalf of the application. He stated that this is their third attempt to try and get a piece of property in Sussex County to build an office on; that they would be an asset to any community; that the name of the applicant on the application was an error and that it really should be Center for Neurology Properties; that they propose to build the Center for Neurology at this site; that they are in agreement with the conditions proposed by the Planning and Zoning Commission; and that they have no proposal for the front portion of the parcel at this time and it may remain tilled.

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

**M 432 04
Adopt
Ordinance
No. 1703**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1703 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR DOCTORS OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 7.34 ACRES, MORE OR LESS” (Conditional Use No. 1544) filed on behalf of Charles D. Murphy Associates, Inc., with the following conditions:

1. The site plan shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all agency approvals.
2. A buffer of Leyland Cypress or similar vegetation will be planted along the property boundaries that border residential or agricultural property.

M 432 04
Adopt
Ordinance
No. 1703
(continued)

3. Lighting for the parking lots and the property in general will be downward illuminated and mounted on poles or lighting pointing away from the adjacent properties and Route 24 to minimize any impact on those areas.
4. The office hours will be from 8:00 a.m. until 6:00 p.m. Monday through Friday, except for emergencies.
5. Required parking will be provided and handicapped parking will be appropriately marked.
6. The building, stormwater management facilities, parking, well and septic shall all be located in such a way that, in the event that Route 24 is widened, the impact on the subject property will be minimal.
7. The entrance to the project shall be relocated to the west away from Route 24 so that it is aligned with the front parking lot.
8. There shall be one lighted sign on the property, not exceeding 32 square feet per side or facing, designating the doctors' office.
9. Any additional development of the site shall require another conditional use application and public hearings.

Motion Adopted: 5 Yea.

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

M 433 04
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Jones, to adjourn at 2:16 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council