

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 27, 2004

Call to Order The regular meeting of the Sussex County Council was held Tuesday, July 27, 2004, at 10:00 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

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

M 434 04 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to suspend the
Suspend Rules of Order to recognize Martin Donovan, District Administrator and
Rules of Tournament Director, Delaware District III Little League.
Order

Motion Adopted: 5 Yea.

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

The Sussex County Council presented a check to Mr. Donovan in the amount of \$10,000 to help defer the costs of the 2004 World Series Tournament, which will be held in Sussex County in August.

M 435 04 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the
Approve Agenda of July 27, 2004.
Agenda

Motion Adopted: 5 Yea.

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

M 436 04 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to approve the
Approve minutes of July 20, 2004.
Minutes

Motion Adopted: 5 Yea.

**M 436 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:

**DEBRA L. ABSHER, DISTRICT COORDINATOR, SUSSEX
CONSERVATION DISTRICT, GEORGETOWN, DELAWARE.**

**RE: Letter offering thanks for the funding level increase approved by the
County Council for tax ditch systems maintenance.**

**GINA MISERENDINO, FACILITATOR, SUSSEX HOUSING GROUP,
SUSSEX COUNTY, DELAWARE, C/O DELAWARE HOUSING
COALITION, DOVER, DELAWARE.**

**RE: Letter thanking the County Council for allocating \$100,000 to the
Community Development and Housing Department to be used for
affordable housing related projects in Sussex County.**

**Prime
Hook
National
Wildlife
Refuge/
Payment
in Lieu
of Taxes**

**Mr. Stickels reported that a check in the amount of \$67,375.00 has been
received from the United States Department of the Interior, Fish and
Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook
National Wildlife Refuge. The check represents payment under the Refuge
Revenue Sharing Act covering Fiscal Year 2003. Sussex County may use
the funds for any governmental purpose.**

**Mr. Stickels presented for the Council's authorization, the recommended
distribution of the Refuge Revenue Sharing Funds, as follows: Milford
School District - \$16,355.18; Cape Henlopen School District - \$35,430.25;
Sussex Technical High School - \$5,301.33; Library - \$1,001.08; and Sussex
County - \$9,287.16.**

**M 437 04
Authorize
Distri-
bution of
Refuge
Revenue
Sharing
Funds**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the
Sussex County Council authorizes the distribution of the Refuge Revenue
Sharing Funds, as proposed.**

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 wastewater facilities to be
constructed in Edgewater Park, Phase II, located in the West Rehoboth
Expansion of the Dewey Beach Sanitary Sewer District.**

**M 438 04
Approve
Agreements**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon
the recommendation of the Sussex County Engineering Department, for
Sussex County Project No. 81-04, Agreement No. 359, that the Sussex
County Council execute a Construction Administration and Construction**

M 438 04 **Inspection Agreement between Sussex County Council and Edgewater Park, LLC, for wastewater facilities to be constructed in Edgewater Park, Phase II, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

Approve
Agreements/
Edgewater
Park,
Phase II **Motion Adopted: 5 Yea.**

(continued)

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

Adminis- **Mr. Stickels read the following information in his Administrator's Report:**
trator's
Report **1. Specialized Transportation Funds**

Please be advised that I have approved the transfer of \$5,090 of Specialized Transportation Funds for Sussex County Senior Services, Inc. \$1,000 was transferred to Purchased Transportation, \$2,665 to Volunteer Transportation, and \$1,425 to Fuel and Oil Expenses. These transfers were necessary to cover over-expenditures that were incurred during the original budgeted amount for FY 2004. Funding for this program is made available through the State, with the County oversight. As County Administrator, I am allowed to approve transfers between budgeted line items as long as the total amount is not exceeded. Approval of the transfers also requires notification of County Council.

2. Beneficial Acceptance

The Engineering Department gave Beneficial Acceptance on July 22, 2004, to Ocean Farm - Phase IV, Agreement No. 297. The developer of this project is Country Life Homes, is located on County Road 363 in the South Bethany Sanitary Sewer District, and consists of 12 single-family lots. The Fact Sheet for this project is included with this report.

3. Delaware Department of Transportation - Public Workshop

The Delaware Department of Transportation (DelDOT) is holding a Public Workshop to present facts and solicit public comments regarding the design of the U.S. 13/DE 404 intersection realignment and Bridgeville service roads. The meeting will be held on Wednesday, July 28, 2004, at the Bridgeville Volunteer Fire Company, 412 Market Street, Bridgeville, Delaware. The public is invited to attend any time between 4:00 p.m. and 7:00 p.m.

The project involves the realignment of DE 404 from Rifle Range Road to east of the Bridgeville Crossing Shopping Center to address safety and capacity issues at the intersection and the construction of

Adminis- trator's Report (continued)	a service road on the east and west sides of U.S. 13 to provide a connection to proposed development and potential future development in the vicinity of the project. Attendees will have an opportunity to review display materials and provide comments to DelDOT representatives.
Draft Ordinance Relating to the Clerk of the Peace	Mr. Baker discussed a draft ordinance entitled "AN ORDINANCE TO AMEND ARTICLE V, SECTION 62-16, TO DELETE THE REQUIREMENT THAT THE CLERK OF THE PEACE PAY A PORTION OF EACH MARRIAGE LICENSE FEE TO THE STATE DIVISION OF PUBLIC HEALTH". Mr. Baker explained that the purpose of the draft ordinance is to reflect the fact that the Clerk of the Peace is no longer required to forward \$4.00 of each marriage license fee to the State Division of Public Health's Office of Vital Statistics.
Introduction of Proposed Ordinance	Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND ARTICLE V, SECTION 62-16, TO DELETE THE REQUIREMENT THAT THE CLERK OF THE PEACE PAY A PORTION OF EACH MARRIAGE LICENSE FEE TO THE STATE DIVISION OF PUBLIC HEALTH". The Proposed Ordinance will be advertised for Public Hearing.
Old Business/ C/U No. 1538	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 STORAGE OF CAMPING TRAILERS AND BOATS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 16.55 ACRES, MORE OR LESS" (Conditional Use No. 1538) filed on behalf of Kevin's Trailer Sales, Inc. Following the discussion, Mr. Cole recommended that information relating to the proposed conditions submitted by the applicant's attorney be provided to the County Council for review prior to a decision being made. Mr. Phillips questioned the applicant's commitment to the proposed conditions since a revised site plan has not been received by the Planning and Zoning Department.
M 439 04 Defer Action on C/U No. 1538	A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1538, an application of Kevin's Trailer Sales, Inc., for the purpose of reviewing proposed conditions submitted by the applicant's attorney. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea

**Discussion/
Draft
Ordinance
Relating
to Open
Space/
Proposed
Ordinance
Relating
to Cluster
Develop-
ment**

Mr. Kautz, Land Use Planner, and Mr. Shafer, the County's Land Use Consultant, discussed the ordinances listed on the agenda for discussion, as follows:

“AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE IV “AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS”, TO ALLOW CLUSTER DEVELOPMENT OF RESIDENTIAL STRUCTURES AND TO DEFINE CLUSTER DEVELOPMENT” (Introduced and Public Hearings held.)

“AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY TO REQUIRE THE PROVISION OF OPEN SPACE IN NEW DEVELOPMENTS” (Draft only, not introduced yet.)

“AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO REQUIRE THE PROVISION OF OPEN SPACE IN NEW DEVELOPMENTS” (Not prepared.)

Mr. Kautz noted that the proposed ordinance, relating to open space for Chapter 115, was not prepared since the context of the ordinance is covered in the proposed ordinance relating to cluster development.

The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE IV “AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS”, TO ALLOW CLUSTER DEVELOPMENT OF RESIDENTIAL STRUCTURES AND TO DEFINE CLUSTER DEVELOPMENT”.

Mr. Kautz referred to Page 4, Section F, of the “cluster development ordinance” which states that “The developer shall submit an application for a cluster subdivision....” He noted that the term “cluster development” has actually been defined and therefore, he recommended, for the purpose of consistency in the ordinance, that “cluster subdivision” be changed to “cluster development”.

Mr. Stickels explained that the cluster ordinance specifies a minimum of ten acres, which will allow lot sizes to be reduced to 7,500 square feet, and requires a 30 percent open space. The ordinance does not define what open space is; it could include wastewater treatment land or wetlands. As the ordinance is currently written, the Council would have to adopt a definition to change this. If there is no definition, the ordinance for open space would be defined as land not built on.

The County Council discussed, at length, possible definitions and restrictions for open space. No consensus was reached.

Mr. Shafer stated that currently, the only definition available for open space is the one contained in the County's Comprehensive Land Use Plan,

Discussion/ Draft Ordinance Relating to Open Space/ Proposed Ordinance Relating to Cluster Develop- ment (continued)	<p>which generally defines it as “uncovered areas for public enjoyment consisting of such things as green areas, gardens, plazas, walks, pathways, promenades, arcades, lawns, fountains, decorative plantings, passive or active recreational areas, golf courses and uncovered areas used for agriculture or forestry. A portion of the non-tidal wetlands may be counted as open space if sufficient recreational and buffer areas are provided. Such space does not include parking or maneuvering areas for vehicles or any individual recorded lots.”</p> <p>Mr. Cole suggested that staff be directed to prepare two examples of a 100-lot subdivision, with one showing cluster development.</p> <p>It was the consensus of the County Council to defer action on the Proposed Ordinance relating to cluster development until the August 3, 2004 meeting.</p> <p>The County Council discussed the draft ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY TO REQUIRE THE PROVISION OF OPEN SPACE IN NEW DEVELOPMENTS”.</p> <p>Mr. Kautz reported that the ordinance would make the minimum percent of open space mandatory in major subdivisions.</p> <p>Mr. Stickels explained that the ordinance would require that a development with two to five units per acre have a minimum of ten percent open space; a development with six to ten units per acre have a minimum of 15 percent open space, and a development with over ten units per acre have a minimum of 25 percent open space. There is no definition of open space in the ordinance, as it is drafted.</p> <p>Mr. Kautz referred to the chart on the second page of the draft ordinance, stating that the term “25 or more” should be in <i>italic</i>, since it is new language.</p>
Introduction of Proposed Ordinance	<p>Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY TO REQUIRE THE PROVISION OF OPEN SPACE IN NEW DEVELOPMENTS”. The Proposed Ordinance will be advertised for Public Hearing.</p>
Future Agenda Item	<p>It was the consensus of the County Council that the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO REVISE AND REPLACE SECTION 194.1 WITH A NEW SECTION ENTITLED THE COMBINED HIGHWAY CORRIDOR OVERLAY ZONE” be placed on the agenda for August 3, 2004 for a vote.</p>

**Wolfe
Neck
Treatment
Plant
Erosion
Repair
Project
Bid
Results**

Mr. Izzo, County Engineer, reported on the bid results for Sussex County Project No. 03-05, Wolfe Neck Treatment Plant Erosion Repair Project, as follows:

BIDDER

BID

**JJID, Inc.
Bear, Delaware**

\$348,500.00

Mr. Izzo reported that the Engineer's estimate was \$289,684.21 and that \$300,000 in funding was budgeted last year for the project. Mr. Izzo noted that another \$50,000 was budgeted for the site and it is proposed that those funds also be allocated for the awarding of this project.

Mr. Izzo reported that there are three treatment lagoons and one storage lagoon at the wastewater treatment plant at the Wolfe Neck Facility. He told the Council that the area around the top of the lagoons has eroded over the years and repairs are necessary to strengthen the surface around the lagoons.

**M 440 04
Award
Bid/
Wolfe
Neck
Treatment
Plant
Erosion
Repair
Project**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that Sussex County Project No. 03-05, Wolfe Neck Treatment Plant Erosion Repair Project, be awarded to JJID, Inc., at the bid amount of \$348,500.00.

Motion Adopted: 5 Yea.

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

**Airport
Fence
Installation
Project
Bid
Results**

Mr. Sapp, Project Engineer, reported on the bid results for Sussex County Project No. 04-09, Sussex County Airport Install Perimeter Fence. The project is a result of the FAA's push for the installation of a perimeter fence at the Sussex County Airport to secure the airfield. Bids were received from four companies with the lowest responsive bid being received from Abel Construction Fence Co. in the amount of \$898,105.00. Mr. Sapp reported that the Engineer's estimate was \$777,700.00.

**M 441 04
Award
Bid/
Fence
Project**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Engineering Department, that the Sussex County Council awards Sussex County Project No. 04-09, Sussex County Airport Install Perimeter Fence to Abel Construction Fence Co. in the amount of \$898,105.00, pending approval and additional funding from the FAA and DelDOT.

Motion Adopted: 5 Yea.

M 441 04
(continued)

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

Amendment to Contract with Delta Airport Consultants

Mr. Sapp, Project Engineer, reviewed Amendment No. 11 to the Agreement for Professional Services between Sussex County and Delta Airport Consultants, Inc., which includes the following two tasks.

- **Task 13 – Runway 4-22 Extension EA – Supplemental Environmental Work (\$214,202.00)**
- **Task 15 – Park Avenue Relocation – Feasibility Study to Determine Road Alignment (\$89,896.00)**

Mr. Sapp noted that both tasks are related to the runway extension project and that in order to extend the main runway from 5,000 useable feet to 6,000 useable feet, Truck Route 9 is going to have to be relocated.

Mr. Sapp reported that 97 1/2 percent federal funding is available for both tasks. The County will be required to pay 2 1/2 percent.

M 442 04
Approve Amendment to Contract with Delta Airport Consultants

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. 11 to the Agreement for Professional Services between Sussex County and Delta Airport Consultants, Inc., for Task 13 (Runway 4-22 Extension EA – Supplemental Work) and Task 15 (Park Avenue Relocation – Feasibility Study), pending FAA approval.

Motion Adopted: 5 Yea.

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

Milton Public Library Expansion Project/Change Orders

Mr. Izzo, County Engineer, reviewed Change Order Nos. 5 and 6 to the Milton Library Expansion Project, which includes the following: door key hardware changes, EIFS modifications (in lieu of additional cedar lapboard which would be needed), decorative modifications, Primeret phone (in lieu of paying Verizon for the work), and re-piping existing roof drains. Mr. Izzo reported that the amount of the two change orders totals \$6,552.00.

Mr. Izzo distributed a Milton Library Change Order Status Report which shows that 33 items have been proposed by the contractor as extra cost items.

M 443 04
Approve
Change
Orders/
Milton
Public
Library
Expansion
Project

A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the Engineering Department, that Change Order Nos. 5 and 6 for Sussex County Project No. 00-02, Milton Library Expansion with Kent Construction Co., Inc. be approved in the amounts of \$5,146.00 and \$1,406.00 respectively, which increases the contract total to \$1,357,245.00.

Motion Adopted: 5 Yea.

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

Heritage
Village
Proposed
Street-
lighting
District

Mr. McCabe, Director of Public Works, discussed the establishment of a streetlighting district in Heritage Village, located on Atlanta Road in Seaford, Delaware. Mr. McCabe reported that the preliminary layout calls for the keeping of the two (2) existing entrance streetlights and the installation of 13 new colonial style streetlights. The annual assessment per unit (58 units) is estimated at \$31.35. Mr. McCabe announced that, in accordance with the County's streetlighting ordinance, the County is required to solicit and approve a rate and pass a Resolution to advertise the rate and conduct an election.

M 444 04
Approve
Estimated
Annual
Billing
Rate/
Heritage
Village
Proposed
Street-
lighting
District

A Motion was made by Mr. Jones, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves an estimated annual billing rate of \$31.35 per residential or commercial improvement within the Heritage Village Proposed Streetlighting District, which shall be adjusted each year thereafter, based upon the number of assessable units and fuel costs.

Motion Adopted: 5 Yea.

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

M 445 04
Adopt
Resolution
No.
R 020 04

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Resolution No. R 020 04 entitled "A RESOLUTION ESTABLISHING THE DATE, TIME, PLACE, ABSENTEE BALLOT PROVISION, AND JUDGE FOR AN ELECTION TO BE HELD TO CONSIDER THE QUESTION OF ESTABLISHING THE PROPOSED HERITAGE VILLAGE STREETLIGHTING DISTRICT".

Motion Adopted: 5 Yea.

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

Request/ Cabbage Pond Street- lighting District	Mr. McCabe, Director of Public Works, presented a request from the Homeowners Association of The Meadows at Cabbage Pond Streetlighting District for a modification of the existing streetlighting district to include an additional streetlight within the district boundaries. He reported that the existing district currently has 20 contemporary streetlights and pays an annual assessment of \$32.79 per improvement.
M 446 04 Obtain Cost Estimates/ Cabbage Pond Street- lighting District	A Motion was made by Mr. Jones, seconded by Mr. Rogers, that the Engineering Department has received a requested from the Homeowners Association in the subdivision known as The Meadows at Cabbage Pond, an existing streetlighting district, requesting that Sussex County Council obtain an estimate of costs and charges for the purpose of installing an additional streetlight within the Streetlighting District, as required by Chapter 95, Section 7 – Modification of District, of the Sussex Code; and therefore, the Sussex County Council authorizes the Sussex County Engineering Department's Public Works Division to obtain an estimate of costs and charges for the installation of an additional streetlight in The Meadows at Cabbage Pond Streetlighting District, for the purpose of administering a Streetlighting District Public Hearing on the request. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
Requests	Mr. Stickels presented grant requests for the Council's consideration.
M 447 04 Council- manic Grant	A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$500.00 (\$250.00 each from Mr. Jones' and Mr. Dukes' Councilmanic Accounts) to the Coverdale Crossroads Community Council for a Summer Education and Cultural Program. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
M 448 04 Youth Activity Grant	A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to the Delaware Diamonds for transportation costs to the World Series in Ohio. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea

M 449 04 Youth Activity Grant **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$250.00 (\$50.00 from each Youth Activity Grant Account) to the Delaware Magic Girls Fastpitch Softball Organization for tournament sponsorship.**

Motion Adopted: 5 Yea.

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

M 450 04 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$300.00 (\$150.00 each from Mr. Rogers' and Mr. Jones' Councilmanic Accounts) to the Leukemia Race for Life for the ABA Race for Life fundraiser.**

Motion Adopted: 5 Yea.

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

M 451 04 Councilmanic Grant **A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$200.00 from Mr. Rogers' Councilmanic Account to the HOB/PTO (H. O. Brittingham Parent Teacher Organization) for the *Partners* Program.**

Motion Adopted: 5 Yea.

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

M 452 04 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$250.00 (\$125.00 each from Mr. Rogers' and Mr. Cole's Councilmanic Accounts) to Dry Dock, Inc. to be used towards the purchase of a building.**

Motion Adopted: 5 Yea.

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

Request Tabled **The funding request from the Delaware Stars Girls Fast Pitch Softball Team was deferred due to the lack of insufficient information.**

M 453 04 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$500.00 from Mr. Dukes' Councilmanic Account to the Woodland Ferry Association for their scholarship fund.**

Motion Adopted: 5 Yea.

**M 453 04
(continued)**

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

**M 454 04
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Cole, to give \$500.00 (\$300.00 from Mr. Phillips' Councilmanic Account and \$50.00 each from Mr. Cole's, Mr. Dukes', Mr. Jones' and Mr. Rogers' Councilmanic Accounts) to the First State Antique Tractor Club to promote their farm show.

Motion Adopted: 5 Yea.

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

**Political
Signs**

Mr. Dan Kramer spoke to the Council regarding the "illegal" posting of political signs.

**M 455 04
Recess**

At 12:10 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Dukes called the Council back into session at 1:30 p.m.

**Public
Hearing
(C/U
No. 1546)**

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 AN ANTIQUE SHOP/ART GALLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 39,281 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1546) filed on behalf of Julie and Joseph Schroeck.

The Planning and Zoning Commission held a Public Hearing on this application on July 8, 2004 at which time they recommended that the application be approved with conditions.

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

The County Council found that Julie Schroeck was present on behalf of her application. She stated that she wants to open an antique store/art gallery; that the shop would be open year-round, seven days a week; and that business hours are planned to be 9:00 a.m. to 9:00 p.m.

**Public
Hearing
(continued)**

Steve Horneyak, the applicant's father, spoke in support of the application. There were no additional public comments and the Public Hearing was closed.

**M 456 04
Adopt
Ordinance
No. 1704
(C/U
No. 1546)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1704 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ANTIQUE SHOP/ART GALLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 39, 281 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1546) filed on behalf of Julie and Joseph Schroeck, with the following conditions:

- 1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.**
- 2. There shall be no refinishing of furniture performed on the site.**
- 3. One lighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.**
- 4. The shop shall be restricted to the existing detached garage. Any further expansion of the shop shall require another conditional use application.**

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. 1547)**

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 BUILDING EXPANSION FOR EQUIPMENT STORAGE AND WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.92 ACRES, MORE OR LESS" (Conditional Use No. 1547) filed on behalf of Verizon/Diamond State Telephone Co.

The Planning and Zoning Commission held a Public Hearing on this application on July 8, 2004 at which time they recommended that the application be approved with one condition.

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

**Public
Hearing
(C/U
No. 1547)
(continued)**

The Council found that Gordon Meade of Davis, Bowen & Friedel, Inc. and James Anderson, Architect, were present on behalf of the application. They stated that the proposal is an expansion of an existing public use; that additional space is needed to house telephone equipment; and that Verizon presently serves approximately 800 users in the area and that the expansion of switching equipment will provide for service for at least 25 years.

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

**M 457 04
Adopt
Ordinance
No. 1705
(C/U
No. 1547)**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1705 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BUILDING EXPANSION FOR EQUIPMENT STORAGE AND WAREHOUSE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.92 ACRES, MORE OR LESS” (Conditional Use No. 1547) filed on behalf of Verizon/Diamond State Telephone Co., with the following condition:

1. The site plan is 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. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

**Public
Hearing
(C/U
No. 1566)**

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 AN OFFICE BUILDING AND STORAGE BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 29,348 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1566) filed on behalf of Lane Builders, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on July 8, 2004 at which time they recommended that the application be approved with six conditions.

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

**Public
Hearing
(C/U
No. 1566)
(continued)**

The Council found that David Rutt, Attorney, was present with Richard Blades, Keith Hastings and Jeff Burton, the owners of Lane Builders, Inc. Mr. Rutt stated that they plan on converting an existing dwelling into office space and constructing a storage building; that they propose to renovate the dwelling with a colonial style to blend in with the homes in Lewes; that the building in the rear of the property will be a pole structure; that the office is intended for their business, not rental; that there will be no material deliveries to the site; that they are willing to landscape the AR boundary; and that the AR setback is 20 feet.

Mr. Rutt referred to Condition No. 5 recommended by the Commission, which states that “The storage building and garage shall not be used as a workshop or for the operation of power tools or other machinery.” He expressed concern that the applicant may need to perform a small, quick job in the storage building and that they did not want to be in violation.

Mr. Lowder Mitchell was present and questioned the 20 foot AR setback. He stated that when he put his land in farmland preservation several years ago, the setback was 50 feet. Mr. Mitchell noted that he does not oppose the application and that he believes the applicant will be a good neighbor. Mr. Mitchell stated that he does not see any need in landscaping the AR boundary.

The County Attorney stated that the application is for a conditional use on a piece of property that has an existing structure located on it and it is not an application for a new subdivision or the development of raw land. For these reasons, the State’s Agriculture Preservation regulations do not apply.

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

**M 458 04
Adopt
Ordinance
No. 1706
(C/U
No. 1566)**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1706 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE BUILDING AND STORAGE BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 29,348 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1566) filed on behalf of Lane Builders, LLC., with the following conditions:

1. There will only be one unlighted sign on the premises that shall not exceed 32 square feet on each side.
2. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties.
3. No outside storage shall be allowed on the premises.
4. No chemicals shall be stored on the premises.
5. The storage building and garage shall not be used as a full-time workshop or for the operation of power tools or other machinery.

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(continued)**

- 6. The conversion of the existing dwelling shall use a colonial design motif.**
- 7. The requirements of the agricultural preservation program shall be consulted in determining the setbacks during site plan approval.**
- 8. The site plan shall be subject to approval by the Planning and Zoning Commission.**

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1543)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 89.41 ACRES, MORE OR LESS” (Change of Zone No. 1543) filed on behalf of Vincent Properties, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on July 8, 2004 at which time they recommended that the application be approved with conditions.

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

The Council found that Duane Zentgraf of Vincent Property, LLC; James Fuqua, Attorney; Kevin McBride of Morris & Ritchie Associates, Inc.; and Derek Kennedy of Orth-Rodgers were present on behalf of the application.

Mr. Fuqua distributed an Exhibit Booklet on Vincent Overlook, a proposed Residential Planned Community. Mr. McBride narrated a power point presentation on the project.

They stated that the application is for an 89-acre parcel that is proposed to be divided into 250 single-family detached homes with central recreational areas; that approximately 26 acres of open space are planned; that no multi-family units are proposed; that the site is currently an open agricultural farm field with no wetlands; that a historic building is located on the site and they plan to preserve it in its entirety including land around it; that the project will have both public water and sewer; that the project

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Hearing
(C/Z
No. 1543)
(continued)**

will be constructed over a three year period; that a community center will provide tennis, swimming, passive and active recreational areas, as well as a central meeting room; that a trail system will include a pedestrian/bicycle path that connects the open space, community parks, village greens, and ponds; that the project will be compatible with the area; that the density of the project is less than the County Engineering Department's assumption of 4 units to the acre; that the applicant will share in costs for roadway improvements as determined by DelDOT; and that the perimeter of the property will be buffered.

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

**M 459 04
Adopt
Ordinance
No. 1707
(C/Z
No. 1543)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1707 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 89.41 ACRES, MORE OR LESS" (Change of Zone No. 1543) filed on behalf of Vincent Properties, LLC., with the following conditions:

1. The maximum number of residential lots shall not exceed 250 as shown on the Developer's site plan.
2. Site plan review shall be required for each phase of development.
3. All entrance, intersection, 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 required by DelDOT.
4. Any propane tanks for residential service to the development shall be completely buried and shall not be visible. The area for propane storage shall also be entirely screened from view by a combination of privacy fencing and/or landscaping.
5. A water storage tower shall not be constructed on the site without first obtaining a Conditional Use after public hearings before the Planning and Zoning Commission and the County Council.
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. These recreational facilities shall include tennis courts, swimming pool, and a community building including a meeting room and pathways and trails.
7. The development shall be served as part of an existing or extended Sussex County Sanitary Sewer District in accordance with the Sussex County Engineering Department's 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 shall be

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(continued)

- constructed in accordance with applicable State and County requirements.
10. The stormwater management facilities shall be operated in a manner that is consistent with Best Management Practices.
 11. 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 at least one side of the streets and street lighting.
 12. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
 13. 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.
 14. The Applicant shall cause to be formed a homeowner's association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.
 15. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.

Motion Adopted: 4 Yea, 1 Nay.

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

M 460 04
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 3:03 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council