

***SUSSEX COUNTY COUNCIL, GEORGETOWN, DE – SEPTEMBER 13, 2005***

**Call to  
Order**

The regular meeting of the Sussex County Council was held Tuesday, September 13, 2005, at 6:30 p.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

**M 481 05  
Amend and  
Approve  
Agenda**

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

by deleting item "1." under Jim Hickin, Project Engineer,

**1. Corporate Hangar Taxilane Project**

**A. Balancing Change Order No. 4; and**

to postpone item "3.", the "Open Space Land Contribution – Ponder Tract", under Robert Stickels, to a later time slot on tonight's agenda;

and to approve the Agenda, as amended.

**Motion Adopted: 5 Yea.**

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

**M 482 05  
Approve  
Minutes**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the minutes of the August 16, 2005 meeting, as distributed.

**Motion Adopted: 5 Yea.**

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

**M 483 05  
Approve  
Minutes**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of the August 23, 2005 meeting, as distributed.

(Con't.)            **Motion Adopted:    5 Yea.**

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

**Corre-  
spondence**

**Mr. Griffin read the following correspondence:**

**KELLY BAILEY, TEAM IN TRAINING CAMPAIGN MANAGER, THE  
LEUKEMIA & LYMPHOMA SOCIETY, WILMINGTON, DELAWARE  
RE:    Thanking Council for their recent donation of \$300.**

**PATRICK W. STERRETT, SCOUT EXECUTIVE, BOY SCOUTS OF  
AMERICA, WILMINGTON, DELAWARE  
RE:    Thanking Council for their recent donation in support of their local  
Scouting programs.**

**SUE TOCCAFONDI, BOARD PRESIDENT, PRIMEROS PASOS, INC.,  
GEORGETOWN, DELAWARE  
RE:    Thanking Council for their recent contribution of \$25,000 in support of  
their Early Care and Education Project.**

**WANDA CREIGHTON, SECRETARY, FIRST STATE ANTIQUE  
TRACTOR CLUB  
RE:    Thanking Council for their recent donation and an invitation to attend  
their 5<sup>th</sup> Annual Antique Tractor, Car and Truck Show on September 23  
and 24, 2005.**

**Check  
Presentation/  
Way Home  
Program**

**The County Council presented a check in the amount of \$3,000.00 to Barbara  
Carter, Director of The Way Home Program. Council was presented with  
information packets explaining this interfaith community ministry located in  
Georgetown. "The Way Home Program" offers support to men and women in  
their transition from prison to home, and also engages the community in their  
outreach.**

**Hurricane  
Katrina  
Relief  
Assistance**

**Mr. Stickels reported to Council that as a result of the devastating damage that  
occurred as a result of Hurricane Katrina, which affected the areas of New  
Orleans and other parts of Louisiana, Mississippi, and Alabama, consideration  
of a financial contribution had been placed on the agenda. In attendance  
representing the American Red Cross of the Delmarva Peninsula were Daniel  
Valle, Chief Operating Officer, and Vanessa McGee. Both Mr. Valle and Ms.  
McGee expressed their appreciation for Council's consideration of this grant.  
Mr. Stickels stated that it was hoped that the funds, if possible, would be used  
primarily for persons relocating to Delaware. Mr. Valle stated that 75 families  
have self-evacuated to Delaware at the present time. He noted that although  
funds donated toward Hurricane Katrina relief are not typically categorized  
for a specific area, they would begin with evacuees being relocated within  
Delaware's jurisdiction.**

- M 484 05**  
**Approve**  
**Grant/**  
**American**  
**Red Cross**  
**of the**  
**Delmarva**  
**Peninsula**
- A Motion was made by Mr. Dukes, seconded Mr. Phillips, that the Sussex County Council, having met in public session, authorizes the expenditure of \$10,000 to the American Red Cross of the Delmarva Peninsula for Hurricane Katrina relief efforts to be used primarily for assistance of individuals being relocated to Delaware.
- Motion Adopted: 5 Yea.
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea
- Individual**  
**Donations/**  
**Red Cross**
- Mr. Stickels noted that for anyone wanting to make an individual financial donation to the American Red Cross to help with relief efforts of Hurricane Katrina, checks should be made payable to the "American Red Cross of the Delmarva Peninsula" and mailed to P.O. Box 767, Wilmington, Delaware 19801.
- M 485 05**  
**Adopt**  
**Proclamation/**  
**Family Day**
- A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt the Proclamation entitled, "PROCLAIMING MONDAY, SEPTEMBER 26, 2005 AS FAMILY DAY".
- Motion Adopted: 5 Yea.
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea
- Committee**  
**Vacancy**
- Mr. Stickels reported that a vacancy exists on the Advisory Committee for the Aging and Adults with Physical Disabilities. Mr. Jones requested that action on this item be deferred to later in the meeting.
- Sandbar**  
**Village at**  
**Nassau**  
**Bridge**
- Mr. Stickels presented Council with a Fact Sheet regarding the construction administration and construction inspection agreement for wastewater facilities to be constructed in the project known as "Sandbar Village at Nassau Bridge", Sussex County Project No. 81-04, Agreement No. 399, located within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
- M 486 05**  
**Execute**  
**Wastewater**  
**Agreement/**  
**Sandbar**  
**Village at**  
**Nassau**  
**Bridge**
- A Motion was made by Mr. Phillips, seconded by Mr. Dukes, that based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 399, the Sussex County Council execute a construction administration and construction inspection agreement between Sussex County Council and "Holiday Park, L.L.C.", for wastewater facilities to be constructed in "Sandbar Village at Nassau Bridge", located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
- Motion Adopted: 5 Yea.

**(Con't.)      Vote by Roll Call:   Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea**

**449 Ameri-  
cana Bayside** Mr. Stickels presented Council with a Fact Sheet regarding the construction administration and construction inspection agreement for wastewater facilities to be constructed in the project known as “Americana Bayside, DelDOT Segment 2, Dry Sewer, Village ‘C’”, located within the Fenwick Island Sanitary Sewer District.

<p><b>M 487 05</b>  <b>Execute</b>  <b>Wastewater</b>  <b>Agreement/</b>  <b>449 Ameri-</b>  <b>cana Bayside</b>  <b>DelDOT</b>  <b>Segment 2</b>  <b>Dry Sewer,</b>  <b>Village C</b></p>	<p><b>A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 449, the Sussex County Council execute a construction administration and construction inspection agreement between Sussex County Council and “Freeman Communities” for wastewater facilities to be constructed in “American Bayside, DelDOT Segment 2, Dry Sewer, Village ‘C’”, located in the Fenwick Island Sanitary Sewer District.</b></p> <p><b>Motion Adopted: 5 Yea.</b></p>
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**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea**

**Airport  
Perimeter  
Fence**

Mr. Stickels reported that a Freedom of Information Act (FOIA) Complaint had been filed regarding action taken by Council at their May 24, 2005 meeting. At the May 24th meeting, Council voted to amend the agenda to allow the County Engineer to request a change order needed for their Airport Perimeter Fence Project. Council subsequently voted to approve the change order, which allowed the County to make payment to the contractor in a timely fashion, thus saving the payment of a late penalty fee. Mr. Stickels reported at the May 24<sup>th</sup> meeting that a delay in the approval of the change order would result in a default of the contract. The Complaint, as well as the decision handed down by the Attorney General's Office, stated that Council had been in violation of the FOIA by not posting the request to amend the agenda at least 6 hours prior to the meeting.

<b>M 488 05 Ratify Council's Action/ Approve Change</b>	<b>A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to ratify Council's previous action of May 24, 2005, that based upon the recommendation of the Engineering Consultants, Delta Airport Consultants, Inc. and the County Engineering Department, that Change Order No. 1 for the Perimeter Fence at the Sussex County Airport with Abel Fence LLC, be approved in the amount of \$3,505.00, which increases the contract total to \$901,610.00.</b>
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**Motion Adopted: 5 Yea.**

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

## Ordinances

<b>for Introduction</b>	<b>Mr. Stickels presented to Council copies of a Proposed Ordinance to amend Article VIII of Chapter 99 of the Code of Sussex County relating to appeals. Mr. Griffin briefly explained the intent of the Proposed Ordinance, which was also discussed at the August 23, 2005 Council meeting.</b>
<b>Ordinance Introduction/ Relating to Appeals</b>	<b>Mr. Rogers introduced the Proposed Ordinance entitled, “AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE VIII RELATING TO APPEALS”. The Proposed Ordinance will be advertised for a Public Hearing.</b>
<b>Proposed Ordinance/ Moderately Priced Housing</b>	<b>Mr. Stickels presented to Council copies of a Proposed Ordinance relating to Moderately Priced Housing Units in Sussex County. In attendance to show support of the County’s efforts toward moderately priced housing were William Lecates, Director of Sussex County’s Community Development and Housing, Secretary Sandra Johnson (Director of the Delaware State Housing Authority), as well as several members of the Moderately Priced Housing Program Initiative Committee, including Michael Tyler, Bernice Edwards, Kim Brockenbrough, and Gina Miserendino. Secretary Johnson noted her honor to be in attendance to witness Council’s introduction of this proposed ordinance. A brief discussion was held regarding the staffing required, as well as their authority in carrying out this proposed program.</b>
<b>Ordinance Introduction/ Moderately Priced Housing</b>	<b>Mr. Jones introduced the Proposed Ordinance entitled, “AN ORDINANCE TO ADOPT CHAPTER 72 OF THE CODE OF SUSSEX COUNTY RELATING TO MODERATELY PRICED HOUSING UNITS”. The Proposed Ordinance will be advertised for a Public Hearing.</b>
<b>Proposed Ordinance/ Fees for Subdivision Application, Review and Approval</b>	<b>Mr. Stickels presented to Council copies of a Proposed Ordinance that would increase the fee schedule for building and zoning permits and subdivisions to bring them in line with the County’s current cost of taking applications, issuing permits and holding hearings before the Board of Adjustment, Planning &amp; Zoning Commission and Council, and approving subdivision plats. In Mr. Stickels review of the proposed increased fees, Mr. Cole suggested a nominal “Demolition Fee” be included to allow the County to ensure that proper clean-up occurs after demolition. It was the consensus of the Council to include a fee of \$25.00 for demolition.</b>
<b>Introduction of Ordinance Fees for Subdivision Application, Review and Approval</b>	<b>Mr. Cole introduced the Proposed Ordinance entitled, “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE III, §62-7 RELATING TO PERMITS AND APPLICATIONS AND ARTICLE II, §99-14 RELATING TO FEES FOR SUBDIVISION APPLICATION, REVIEW AND APPROVAL”, and to include a Demolition Fee of \$25.00. The Proposed Ordinance will be advertised for a Public Hearing.</b>
<b>Open Space Land Contribution</b>	<b>The County Council presented a check in the amount of \$750,000 to Wendy Baker, President and CEO of the Sussex County Land Trust. Ms. Baker</b>

thanked Council for allocating \$750,000 toward the conservation easement on the Ponder Tract, which is located near Ellendale. This purchase is a partnership between the Nature Conservancy and the Sussex County Land Trust, and allows the purchase of one of the largest forested tracts, nearly 700 acres, remaining in Sussex County.

**Adminis-  
trator's  
Report**

Mr. Stickels submitted the following information in his County Administrator's Report:

**1. Beneficial Acceptance**

The Sussex County Engineering Department gave Beneficial Acceptance to the following projects:

- **Americana Bayside - Phase 2, Agreement No. 345, was granted approval on August 11, 2005. The project is located on the south side of Route 54 in the Fenwick Island Sanitary Sewer District, consisting of 116 single-family lots with a pump station and force main.**
- **Rehoboth Beach Yacht & Country Club - Phase 9, Agreement No. 355, was granted approval on August 15, 2005. The project is located west of County Road 273 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 17 single-family lots.**
- **The Hamlet at Dirickson Pond, Agreement No. 344, Ordinance No. 657, was granted approval on August 30, 2005. The project is located on County Road 384 in the South Coastal Planning Area, consisting of 81 single-family lots with on-site treatment.**

Included with this report is a fact sheet on each of the projects.

**2. George H. P. Smith**

It is with regret that I inform the Council of the passing of George H. P. Smith on Sunday, September 11, 2005. Mr. Smith served almost three decades in Lewes municipal government, ten of which he served as Lewes' first and only black mayor. He was active in church and many community and civic organizations, as well as serving on the Board of Trustees of Beebe Medical Center and Delaware State University. George Smith served in the Army from 1953 until 1955 and taught for more than 35 years in what became the Cape Henlopen School District.

Our sympathies go out to the Smith family.

**Paramedic  
Graduates  
(Con't.)**

Mr. Luedtke, Director of EMS, introduced the first graduates of the County's Paramedic Student Training Program, including Jonathan Offen

(Georgetown), Gabriela Evans (Millville), Paula Moore (Blades) and John Wright (Frankford). Mr. Luedtke mentioned that Mr. Offen had passed all certification requirements and is now certified as a paramedic, with the remaining three currently in the certification process. Also in attendance were Rob Mauch (Training Coordinator) and T. Allen Barnes (Professional Division Manager). The program's 18-months of training is provided through Delaware Technical and Community College. The students must be County residents and upon graduation, they are required to sign a 3-three contract with the County. Mr. Stickels noted the benefit of an increased retention rate with the hiring of Sussex County residents as County paramedics. Council congratulated the graduates for their hard work in completing such a rigorous course, and extended their thanks for their dedication to the residents of the County. There are presently 11 openings within the Paramedic Office and Mr. Luedtke noted that there are four additional students enrolled in the Program. Mr. Stickels also expressed his appreciation to the staff of the Paramedic Department for their assistance with the County's recent 9-11 ceremony; many positive comments were received.

**PATS Air-  
Craft/  
J. Fran Dell  
Sublease**

Mr. Masten, Director of Economic Development, appeared before Council regarding a proposed sublease by J. Fran Dell (to PATS Aircraft, LLC.) It has been requested that J. Fran Dell be allowed to sublease their building, located on Baltimore Avenue in the Industrial Park, to PATS/DeCrane. PATS/DeCrane, through their expansion, is need of additional office space.

**M 489 05  
Authorize  
J. Fran Dell  
Sublease  
to PATS/  
DeCrane**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council authorizes J. Fran Dell, Inc., also referred to as AM Whittacomm, Inc., to sublease their facility as specified by the terms of the lease dated November 1, 1989 Section XI: Subletting and Assigning, to PATS/DeCrane for the purpose of additional office space to support their operations at the Sussex County Industrial Park and Sussex County Airport. Execution of the sublease will be contingent on the review and approval of the County Finance Director, the County Attorney, and the County Insurance Consultant. Tenant and subtenant will provide to the County the appropriate insurance certification as required by the County.

**Motion Adopted: 5 Yea.**

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

**Public  
Hearing/  
Appeal of  
Spring Breeze  
Associates  
Subdivision  
No. 2004-8  
(Con't.)**

A Public Hearing was held on the Appeal of Spring Breeze Associates, Subdivision No. 2004-8.

Mr. Abbott, Assistant Director of Planning & Zoning, presented and reviewed a brief outline of the proposed subdivision. This is an application to subdivide 139.05 acres into a 235 lot Cluster Development. Planning and Zoning held a Public Hearing on December 9, 2004 for 275 lots, with action being deferred at

that time. On January 20, 2005, the Commission reviewed the application under Old Business and denied the application as submitted. On April 7, 2005, the Commission approved the applicant's request for reconsideration with a new public hearing; the Public Hearing for a revised plot (reducing the number of lots to 235) was held on June 23, 2005, with the Commission deferring action. On July 14, 2005, the Commission reviewed the application under Old Business and, again, deferred action. The Commission reviewed the application under Old Business on July 28, 2005 and denied the application as submitted.

At the August 9, 2005 Council meeting, Council granted the applicant's request for an Appeal Hearing.

Mr. Griffin noted that the application was originally processed under the traditional Subdivision Ordinance prior to the adoption of the Cluster Ordinance. Afterwards, the application was reconfigured and submitted under the Cluster Ordinance. Planning and Zoning stated 6 reasons for denial and are included in Mr. Abbott's July 29, 2005 letter to Mr. Louis Capano of Spring Breeze Associates. Mr. Griffin stated that the applicant would need to demonstrate why they believe the Planning & Zoning Commission misapplied the Cluster Ordinance to their application.

The Council found that Heidi Balliet (attorney with Tunnell & Raysor) and Ed Politowski (with Karins and Associates) were in attendance on behalf of the applicant. Ms. Balliet briefly reviewed the information packets that were provided by the applicant, which included a letter of July 29, 2005 to Louis Capano from Shane Abbott stating P & Z's six reasons for denial, a Transcript of Testimony for the Planning and Zoning Commission meeting of June 23, 2005, a partial transcript (tape damaged) of the July 28, 2005 Planning and Zoning hearing, a summary and review of what the applicant believes Planning and Zoning used as the superiority test, as well as the basis for which the applicant believes the Superiority Test should have been applied. Ms. Balliet stated that the information she was presenting was not new, but only summarized what had already been presented and would substantiate their belief that the Cluster Ordinance should have been applied to their subdivision.

Ms. Balliet stated the four factors, or the superiority test, that are to be considered for the County's new Cluster Ordinance, including: (1) whether the Cluster Development provides for a total environment and design which is superior to a standard subdivision, (2) whether it will preserve the natural environment and any historic or archeological resources, (3) whether all the items in Section 99-9C of the Subdivision Ordinance have been addressed, and (4) whether clustering will have an adverse impact on any of the Section 99-9C items, which are 17 in all. Ms. Balliet reviewed the four factors, as well as all 17 items, and stated that it is their opinion that the application will not adversely impact 99-9C and, in fact, clustering will minimize the subdivision's impact on the site. Ms. Balliet stated that the applicant feels that the application meets the requirements of the Cluster Ordinance. She noted that since there are no written objective guidelines for determining superiority, it is

(Con't.)



purely subjective and left to the discretion of the Planning & Zoning Commission members. Ms. Balliet also addressed the 6 reasons given by Planning & Zoning as the basis for their denial. The applicant feels that the test for superiority was misapplied by the Planning & Zoning Commission and that they have met all the factors and guidelines of the Cluster Ordinance for the application.

Mr. Abbott was asked if he agreed that the application meets the guidelines of the Cluster Ordinance. Mr. Abbott stated that the preliminary plan meets the technical requirements of the Subdivision and the Cluster Ordinance.

Mr. Politowski noted that the Cluster Ordinance allows 2 units per acre (the applicant is proposing 1.6) and confirmed that the application was developed using the "Better Models for Better Development in Delaware".

Council found that John Davidson, John Furbush, Henry Glowiak, Bill Tobin, and Mike Tyler were present in opposition to this application. Their comments included concern that too many lots are proposed for the area; negative impact of water run-off; this is a unique piece of acreage in that the entire site, nearly 140 acres, is wooded and most of the trees would have to be removed to allow for the proposed development; negative impact on schools; this application seems to be the worst case scenario of the intent of cluster housing; the application doesn't comply with Livable Delaware and the Clean Water Act; and its negative impact on the roadways. Council was asked to consider the impact of its decisions on the rural areas within the County and the sprawl it creates.

Mr. Griffin stated that it is now the Council's duty to decide if the applicant met the Cluster Ordinance requirements and properly addressed the 17 factors that are set forth in 99-9C. Council also needs to look at the Planning & Zoning Commission's 6 reasons for denial and determine if they were well founded reasons based on the record that was before the Planning & Zoning Commission.

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

**M 490 05**

**Defer  
Action/  
Appeal of  
Spring  
Breeze  
Associates**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer action on the Appeal of Spring Breeze Associates – Subdivision No. 2004-8.

**Motion Adopted: 4 Yea; 1 Nay.**

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

**Cedar Grove  
Estates  
Expansion  
Request**

Mr. Archut, Assistant County Engineer, presented a proposal for the Cedar Grove Estates Expansion to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Mr. Archut is seeking Council's permission to prepare

and post notices for this expansion to include 2 parcels of land, comprising of approximately 17-1/2 acres, located in Cedar Grove Estates, and to include 49 single-family homes. Mr. Archut reviewed the map of the proposed annexation area.

**M 491 05**

**Post Notices/  
Cedar Grove  
Expansion**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District Boundary to include the Cedar Grove Estates Expansion, as presented on September 13, 2005.

**Motion Adopted: 5 Yea.**

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

**Delta Airport  
Consultants/  
Contract  
Agreement**

Mr. Hickin, Project Engineer, presented Contract Amendment No. 15 to the Agreement for Professional Services between Sussex County Council and Delta Airport Consultants, Inc. Mr. Hickin explained that the Amendment is for consulting services for a snow removal equipment building. The County received a grant from the FAA, which will cover 95 percent of Delta's consulting services, with both the County and State picking up 2.5 percent of the cost, or less than \$1,600 each.

**M 492 05**

**Accept  
Contract  
Amendment/  
Engineering  
Agreement  
with Delta  
Airport  
Consultants**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 15 to the Engineering Agreement between Sussex County and Delta Airport Consultants, Inc. to perform consulting services for the snow removal equipment building, which increases the original contract amount by \$62,585.00, pending approval from the County Finance Director, DelDOT, and/or the FAA.

**Motion Adopted: 5 Yea.**

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

**Public  
Hearing  
(C/U No.  
1618)  
Charles A.  
& Bonnie J.  
Zonko**

A Public Hearing was held on the Proposed Ordinance entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION COMPANY OFFICE AND STORAGE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.13 ACRES, MORE OR LESS" (Conditional Use No. 1618) filed on behalf of Charles A. and Bonnie J. Zonko.

**(Con't.)**

Mr. Dukes excused himself from the public hearing due to a conflict of interest, citing Mr. Zonko as a customer.

The Planning and Zoning Commission held a Public Hearing on this application on August 11, 2005, at which time they recommended that the application be approved, with 10 conditions.

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the County Council's record. Mr. Abbott provided Council with copies of the site plan and reviewed comments received on August 15, 2005 from the Sussex Conservation District.

The County Council found that Charles Zonko, the applicant, was present, along with his attorney, Shannon Carmean (with Sergovic & Ellis) and John Murray (Kercher Engineering, Inc.). Informational booklets were presented to Council by the applicant, which included a site plan, photographs, floor plan, evidence as to their compliance with the Comprehensive Plan Update, etc. Ms. Carmean presented a brief overview of the application, which proposes the construction of two buildings on the site, one of which will be used as office space for the construction company and will resemble a custom built home. The second building will be a storage warehouse and will be built to resemble an agricultural barn. Mr. Zonko stated that he was in agreement with the Commission's proposed 10 conditions.

Mr. Murray, Project Manager, stated that the entrance plan will be reviewed by DelDOT and will be subject to their permitting. He also mentioned that the stormwater management facility they are proposing for this site will use Best Management Practices.

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

**M 493 05**  
**Adopt**  
**Ordinance**  
**No. 1789/**  
**C/U No.**  
**1618**  
**(Charles A.**  
**& Bonnie J.**  
**Zonko**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1789 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION COMPANY OFFICE AND STORAGE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.13 ACRES, MORE OR LESS", (Conditional Use No. 1618) filed on behalf of Charles A. and Bonnie J. Zonko, with the following conditions:

1. The office building shall maintain a residential appearance.
2. Business hours shall be from 6:30 a.m. to 5:00 p.m., Monday through Friday and 6:30 a.m. through 12:00 noon on Saturdays. There shall be no Sunday business hours.

(Con't.)

3. Any lighting on the sign shall be timed to go off at 8:00 p.m. The

lighting shall be screened so as not to impact neighboring properties.

4. One ground sign, not exceeding 32 square feet per side, or facing, may be permitted.
5. The existing shed shall be relocated to conform to the required setbacks.
6. The entrance shall be gated.
7. The site plan shall require review and approval by the Planning and Zoning Commission.
8. There shall be no outside storage of materials.
9. Any storage of work trailers may be outside, but shall be limited to the area to the rear of the site.
10. The site plan shall indicate the type of fencing to be erected on the site and shall be subject to review and approval by the Planning and Zoning Commission.
11. Dumpster location shall be subject to site plan review.

Motion Adopted: 4 Yea; 1 Not Voting.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Dukes, Not Voting; Mr. Rogers, Yea  
Mr. Jones, Yea

Old  
Business  
(C/U No.  
1526)  
Robino-  
Sanibel  
Village

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 MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 38.23 ACRES, MORE OR LESS" (Conditional Use No. 1526) filed on behalf of Robino-Sanibel Village, LLC.

Mr. Abbott, Assistant Director of Planning and Zoning, briefly reviewed a report prepared by Mr. Lank giving an overview of the Planning & Zoning Commission's action regarding this proposed conditional use.

County Council discussed Conditional Use No. 1526 under Old Business during their meeting of August 23, 2005. At that time, Council voted to defer action on the application until September 13, 2005. A lengthy discussion ensued regarding traffic safety concerns and conditions that could be added to address them.

M 494 05  
Adopt

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt Ordinance

**Ord. No.  
1790  
(C/U No.  
1526)  
Robino-  
Sanibel  
Village**

**No. 1790 entitled, “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 38.23 ACRES, MORE OR LESS” (Conditional Use No. 1526) filed on behalf of Robino-Sanibel Village, LLC, subject to the following conditions:**

- 1. The maximum number of residential units shall not exceed 152.**
- 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT’s determination.**
- 3. 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 residential building permit. These amenities shall include a swimming pool.**
- 4. The development shall be served as part of the Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department specifications.**
- 5. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. BMPs shall be incorporated into the system design to minimize any environmental impact during construction and that perpetual maintenance will be provided by the developer and the homeowners association during the operation of the system.**
- 7. Site plan review for each phase of development shall be subject to approval of the Planning & Zoning Commission.**
- 8. The applicant shall submit as part of the site plan review, a landscape plan showing the proposed tree and shrub landscape design.**
- 9. Construction, site work, grading and deliveries of construction materials, landscape materials and fill, on, off or to the property, shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.**
- 10. Addressing and street naming shall be reviewed and approved by the Sussex County Mapping and Addressing Division.**
- 11. Sidewalk and street lighting shall be provided as approved by the**

**(Con’t.)**

**Planning & Zoning Commission.**

- 12. A “work plan” for site clean up approved by DNREC shall be prepared and completed by the applicant.**
- 13. The approval is subject to the applicant making all entrance improvements required by DelDOT.**
- 14. The signing and recording of a shared entrance agreement allowing this development to use the shared entrance with Atlantic Concrete and providing for perpetual maintenance of the shared entrance road and that such agreement shall be reviewed and approved by the County attorney.**
- 15. If Ingress & Egress to this property is obtained by a shared Entrance/Right of Way or Easement with the existing or any future Commercial facility adjoining this property then a Signal SHALL be installed on the Entrance Road for this Residential Community that would require all exiting vehicles from this development to STOP if a vehicle is leaving the Commercial Facility. The initiation of the Signal (STOP LIGHT) shall be performed in such a manner that if no commercial vehicle is in the imminent area while leaving the Commercial Site then traffic from this development could continue exiting the subdivision without STOPPING. The design for this Device and Traffic Movements shall be submitted being properly Signed and Sealed by a Licensed Professional Traffic Engineer authorized to perform work in the State of Delaware. This documentation shall be submitted to the Sussex County Engineer with the Preliminary Subdivision Plan Submittal. An acceptance that the submitted Traffic Control Device meets the intent of this Condition as stated by the County Council, shall be given by the Sussex County Engineer prior to Final Site Plan Review and Approval by the County Planning & Zoning Commission. If this development can obtain an approved Ingress & Egress from another location that does not involve the traffic from the Commercial Facility, then this condition may be waived.**

**Motion Adopted: 3 Yea; 2 Nay.**

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

**Requests**

**Mr. Stickels presented grant requests for the Council’s consideration.**

**M 495 05**

**Council-  
manic Grant/  
IRHS  
Volleyball**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$250.00 from Mr. Cole’s and Mr. Phillips’ Councilmanic Accounts) to the IRHS Volleyball Boosters to be used toward the purchase of uniforms.  
Motion Adopted: 5 Yea.**

**Boosters**

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

**M 496 05**

**Council-  
manic Grant/  
Ellendale  
Ruritan Club**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$500 from Mr. Rogers' Councilmanic Account to the Ellendale Ruritan Club to be used to offset expenses of their Historical Book Project.

**Motion Adopted:** 5 Yea.

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

**M 497 05**

**Youth  
Activity  
Grant/  
Laurel Little  
League**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to grant an additional \$500.00 (\$250.00 from Mr. Phillips' and Mr. Dukes' Youth Activity Accounts) to the Laurel Little League to be used to offset expenses incurred by the District 3 Big League Softball Team in their participation of the Eastern Regional Tournament recently held in Connecticut.

**Motion Adopted:** 5 Yea.

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

**M 498 05**

**Community  
Improvement  
Fund/  
Seaford  
Mission**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$1,500.00 from Mr. Dukes' Community Improvement Fund to the Seaford Mission to be used to assist in the establishment of Transitional/Emergency Housing Units.

**Motion Adopted:** 5 Yea.

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

**M 499 05**

**Council-  
manic Grant/  
Woodland  
Ferry  
Association**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 from Mr. Dukes' Councilmanic Account to the Woodland Ferry Association to be used to offset expenses of their annual Woodland Ferry Festival.

**Motion Adopted:** 5 Yea.

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

**M 500 05**

**Community**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$5,000

**Improvement Fund/  
Greater  
Milford Boys  
& Girls Club** (\$2,500 from Mr. Rogers' and Mr. Jones' Community Improvement Fund) to the Greater Milford Boys & Girls Club to be used toward their Capital Campaign for their Boys & Girls Club facility.

**Motion Adopted:** 5 Yea.

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

**Introduction  
of Proposed  
Ordinance**

Mr. Dukes introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3,500 SQUARE FEET, MORE OR LESS" (C/Z No. 1591) filed on behalf of Charlie J. Pearsall. The Proposed Ordinance will be advertised for a Public Hearing.

**Introduction  
of Proposed  
Ordinance**

Mr. Phillips introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (30 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.51 ACRES, MORE OR LESS" (C/U No. 1642) filed on behalf of Sunrise Ventures, L.L.C. The Proposed Ordinance will be advertised for a Public Hearing.

**Public  
Comments**

Mr. Kramer, of Greenwood, expressed his concern as to Mr. Griffin's preference to offer his legal opinion to Council outside of an open forum. As County Attorney, Mr. Griffin had stated during a discussion earlier in the meeting that he would prefer Council to review the record and then seek his advice regarding questions they think would result in legal action.

**Amendment/  
Cluster  
Ordinance**

In light of comments received at today's Public Hearing for the appeal of Spring Breeze Associates, Mr. Cole requested that County staff look into amending the Cluster Ordinance to ensure that it would apply only in Development Districts.

**M 501 05  
Adjourn**

At 9:45 p.m., a Motion was made by Mr. Cole, seconded by Mr. Dukes, to adjourn. Motion Adopted by Voice Vote.

Respectfully submitted,

Nancy J. Cordrey  
Assistant Clerk of the County Council