



## *Sussex County Council Agendas & Minutes*

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 21, 2004**

**Call to  
Order**

The regular meeting of the Sussex County Council was held Tuesday, September 21, 2004, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**M 542 04  
Amend  
and  
Approve  
Agenda**

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

- Country Grove – Springfield Enterprises  
Subdivision No. 962

**Notice of Subdivision Appeal and Scheduling of Public Hearing**

- Holts Landing Sanitary Sewer District – Bay Colony and  
Fairway Villas Collection and Conveyance System

**Change Order No. 2**

- South Coastal Regional Wastewater Facility  
Treatment Upgrade No. 2

**Bid Award**

**; and, to approve the Agenda, as amended.**

**Motion Adopted: 5 Yea.**

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

**Mr. Dukes, Yea**

**M 543 04**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the**  
**Approve**      **minutes of September 14, 2004.**  
**Minutes**

**Motion Adopted:      5 Yea.**

**M 543 04**      **Vote by Roll Call:      Mr. Phillips, Yea; Mr. Cole, Yea;**  
**(continued)**      **Mr. Rogers, Yea; Mr. Jones, Yea;**  
      **Mr. Dukes, Yea**

**M 544 04**      **A Motion was made by Mr. Jones, seconded by Mr. Rogers, based upon the**  
**Execute**      **recommendation of the Sussex County Engineering Department, for Sussex**  
**Agreements/**      **County Project No. 81-04, Agreement No. 336, that the Sussex County**  
**Salt**      **Council execute a Construction Administration and Construction**  
**Meadows**      **Inspection Agreement between Sussex County Council and Coast**  
      **Development, LLC, for wastewater facilities to be constructed in Salt**  
      **Meadows, 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**

**M 545 04**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the**  
**Execute**      **recommendation of the Sussex County Engineering Department, for Sussex**  
**Agreements/**      **County Project No. 81-04, Agreement No. 350, that the Sussex County**  
**The**      **Council execute a Construction Administration and Construction**  
**Preserve**      **Inspection Agreement between Sussex County Council and The Preserve at**  
**at Ocean**      **Ocean View, LLC, for wastewater facilities to be constructed in The**  
**View**      **Preserve at Ocean View, located in the Ocean View Expansion of the**  
      **Bethany Beach 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**

**M 546 04**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the**  
**Execute**      **recommendation of the Sussex County Engineering Department, for Sussex**  
**Agreements/**      **County Project No. 81-04, Agreement No. 345, that the Sussex County**  
**Americana**      **Council execute a Construction Administration and Construction**  
**Bayside**      **Inspection Agreement between Sussex County Council and Carl M.**  
      **Freeman Communities, for wastewater facilities to be constructed in**  
      **Americana Bayside – Phase 2, 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 read the following information in his Administrator's Report:**

**1. Airport Committee Meeting**

**The Sussex County Airport Committee will be meeting on Wednesday, October 6, 2004, at the Sussex County Administrative West Complex, North DuPont Highway, Georgetown, Delaware, starting at 10:00 a.m. The public as well as the media is welcome to attend this meeting.**

**Paramedic  
Station  
Leases**

**Mr. Luedtke, Director of EMS, reviewed Lease Renewal Agreements for two paramedic stations, Station 105 in Frankford and Station 106 in Long Neck.**

**Paramedic  
Station  
Lease  
Agreement/  
Station 105**

**The Lease Agreement for Station 105 is between Lawrence C. Kelly and Sussex County. The Agreement stipulates a monthly rental of \$1,050.00 commencing on November 1, 2004. The Agreement is for a term of five years. With the exception of the monthly rental amount, all of the terms and conditions of the original Lease Agreement will remain the same.**

**M 547 04  
Approve  
Paramedic  
Station  
Lease  
Agreement/  
Station 105**

**A Motion was made by Mr. Jones, seconded by Mr. Rogers, that the Sussex County Council approves the Lease Agreement between Lawrence C. Kelly and Sussex County, Delaware for the use of his building, as described by Sussex County EMS as Paramedic Station 105.**

**Motion Adopted: 5 Yea.**

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

**Paramedic  
Station  
Lease  
Agreement/  
Station 106**

**The Lease Agreement for Station 106 is between Mid Sussex Rescue Squad, Inc. and Sussex County. The Agreement stipulates a monthly rental of \$927.00 commencing on November 1, 2004. The Agreement is for a term of one year. With the exception of the monthly rental amount, all of the terms and conditions of the original Lease Agreement will remain the same.**

**M 548 04  
Approve  
Paramedic  
Station  
Lease  
Agreement/**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council approves the Lease Agreement between Mid Sussex Rescue Squad, Inc. and Sussex County, Delaware, for the use of a portion of their building, as described by Sussex County EMS as Paramedic Station 106.**

**Motion Adopted: 5 Yea.**

**Station 106**

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

**Memorandum of Agreement/Caroline County EMS**

Mr. Luedtke discussed a proposed Memorandum of Agreement between the Caroline County, Maryland Emergency Medical Services (CCEMS), Kent County, Delaware Emergency Medical Services (KCEMS), Sussex County, Delaware Emergency Medical Services (SCEMS), and the Delaware Office of Emergency Medical Services. Mr. Luedtke stated that the purpose of the proposed agreement is to establish operational procedures for CCEMS to respond to calls in Delaware, as needed, to provide ambulance response and transportation. The proposed agreement specifies that response by CCEMS in Delaware shall be considered a Basic Life Support (BLS) response, with the exception of specific circumstances (which are outlined in the proposed agreement).

**M 549 04 Approve Memorandum of Agreement/Caroline County EMS**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, that the Sussex County Council approves the Memorandum of Agreement between Caroline County, Maryland Emergency Medical Services, Kent County, Delaware Emergency Medical Services, Sussex County, Delaware Emergency Medical Services, and the Delaware Office of Emergency Medical Services for the purpose of establishing operational procedures for the actions of Caroline County, Maryland EMS Paramedics when responding to calls within the State of Delaware, subject to the approval of the Sussex County Finance Director.

**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 SLD**

Mr. McCabe, Director of Public Works, reported that an election to establish the Heritage Village Streetlighting District was held on September 1, 2004. The total number of votes cast was 33 with 30 votes for and three votes against the streetlighting district.

**M 550 04 Adopt R 022 04/Establishing Heritage Village SLD**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Resolution No. R 022 04 entitled “A RESOLUTION ESTABLISHING THE 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

**The Meadows at Cubbage Pond SLD/ Modification SLD Modification (continued)**

Mr. McCabe reported to the Council that a request has been received for an additional streetlight in The Meadows at Cubbage Pond Streetlighting District. He also reported that the annual billing rate for the installation of an additional street light in the existing district is estimated to be \$47.40 for the first year and \$35.91 after the first year, for each property having a residential or commercial improvement located within the District.

Mr. McCabe advised that, in accordance with State Law, a public hearing is required to be scheduled and held for any modifications to existing streetlighting districts.

**M 551 04 Adopt R 023 04/ Approving Rate for The Meadows at Cubbage Pond SLD**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council approves an estimated annual billing rate of \$47.40 for the first year and \$35.91 after the first year, per residential or commercial improvement within The Meadows at Cubbage Pond 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 552 04 Adopt R 024 04/ Establish Time of Public Hearing/ The Meadows at Cubbage Pond SLD**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Resolution No. R 024 04 entitled “A RESOLUTION ESTABLISHING THE DATE, TIME, AND PLACE FOR A PUBLIC HEARING TO BE HELD TO CONSIDER THE REQUEST FOR AN ADDITIONAL STREETLIGHT IN THE MEADOWS AT CUBBAGE POND 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**

Mr. Stickels presented a grant request for the Council’s consideration.

**M 553 04 Councilmanic Grant**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$500.00 from Mr. Rogers’ Councilmanic Grant Account to the Delaware Humane Association for the Milton Catsnippers’ Project to spay and neuter cats.

**Motion Adopted: 5 Yea.**

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

**Mr. Dukes, Yea**

**Mobile  
Home  
Tenants  
Association  
Meeting  
Mobile  
Home  
Tenants  
Association  
Meeting  
(continued)**

**Mr. Cole commented that he recently attended a meeting of the Mobile Home Tenants Association and that they had questions he was unsure how to respond to.**

**Q: Does the County oversee rent control and the regulation of mobile home parks.**

**A: Mr. Griffin responded that the County does not have enabling legislation regarding these matters.**

**Q: Does the County have any way to regulate parks as they relate to the health and safety of the residents?**

**A: Mr. Stickels responded that the County started a program a year ago whereby the Constables Office visits every park and they rank the park on neatness, roadways, etc. The park owners are provided a copy of the report. In addition, under the conditional use process, parks have a list of things they have to do and the County can enforce this. It was noted that if their roads have potholes, etc. that are detrimental to emergency vehicles, the park owners are required to make repairs.**

**Q: Is it the responsibility of the park owner to obtain Certificates of Occupancy? (Many people cannot sell their homes because the original Certificate of Occupancy was never obtained.)**

**A: Mr. Stickels stated that it is the responsibility of the park owner to obtain Certificates of Occupancy and that if the park owner does not do this, he can be violated. (Mr. Cole noted that it has been reported that this is a problem at Mariner's Cover. Mr. Stickels responded that the County would investigate.)**

**Mr. Cole commented on the approval rate of the Board of Adjustment relating to variances for front yard and side yard setbacks and suggested that the ordinance be amended since the Board is approving all the requests anyway. Mr. Stickels noted that a setback variance should only be granted if a hardship situation exists.**

**Scholarship  
Election  
Contest**

**Mr. Phillips suggested that the Scholarship Election Contest be held again this election year. In the year 2000, each Councilman gave \$100.00 from their Councilmanic Grant Accounts to award five - \$100.00 scholarships, one in each district.**

**Mr. Griffin stated that Griffin & Hackett would donate \$100.00 towards the contest for a sixth scholarship award.**

**M 554 04**

**A Motion was made by Mr. Phillips to establish the Scholarship Election**

<b>Establish Contest (With-drawn)</b>	<b>Contest for 2004.</b>  <b>Mr. Phillips withdrew his Motion since the matter was not previously placed on the Agenda.</b>
<b>Agenda Item M 555 04 Recess</b>	<b>Mr. Stickels stated that “Scholarship Election Contest Grant” would be placed on the agenda for September 28, 2004.</b> <b>At 10:49 a.m., a Motion was made by Mr. Jones, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.</b>
<b>Reconvene</b>	<b>Mr. Dukes called the Council back into session at 1:34 p.m.</b>
<b>Public Hearing (C/Z No. 1550)</b>	<b>A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.4173 ACRES, MORE OR LESS” (Change of Zone No. 1550) filed on behalf of Norman C. Walls.</b>  <b>The Planning and Zoning Commission held a Public Hearing on this application on August 19, 2004 at which time they recommended that the application be approved.</b>  <b>Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary and the findings and recommendation of the Commission were admitted as part of the County Council’s record.</b>  <b>(See the minutes of the Planning and Zoning Commission dated August 19, 2004 for additional information on this application, correspondence received, and the Public Hearing before the Commission.)</b>  <b>The County Council found that Norman C. Walls was present with David Rutt, Attorney. Mr. Rutt stated that the rezoning will allow Mr. Walls to use the property for equipment and parts storage for his fuel tank installation business; that a conditional use application is not an option in the MR District; and that the site has historically been used for business/industrial uses.</b>  <b>Mr. Stickels reminded the applicant that he would have to obtain a commercial entrance permit from DelDOT.</b>  <b>There were no public comments and the Public Hearing was closed.</b>
<b>M 556 04 Adopt Ordinance No. 1716</b>	<b>A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1716 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL</b>

**(C/Z  
No. 1550)**      **COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.4173 ACRES, MORE OR LESS” (Change of Zone No. 1550) filed on behalf of Norman C. Walls.**

**Motion Adopted:      5 Yea.**

**M 556 04  
(continued)**      **Vote by Roll Call:      Mr. Phillips, Yea; Mr. Cole, Yea;  
   Mr. Rogers, Yea; Mr. Jones, Yea;  
   Mr. Dukes, Yea**

**Conflict  
of Interest**      **Mr. Rogers stated that he would be abstaining from participating in the public hearing and vote on Change of Zone No. 1551 and Conditional Use No. 1551, applications of Shorts Marine.**

**Public  
Hearings/  
C/Z  
No. 1551  
and  
C/U  
No. 1551**      **A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.7806 ACRES, MORE OR LESS, OF A 95.21 ACRE TRACT” (Change of Zone No. 1551) filed on behalf of Shorts Marine and the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT STORAGE YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.7806 ACRES, MORE OR LESS, OF A 95.21 ACRE TRACT” (Conditional Use No. 1551) filed on behalf of Shorts Marine.**

**The County Council and the applicant agreed to combine the two public hearings.**

**The Planning and Zoning Commission held a Public Hearing on the applications on August 19, 2004 at which time they deferred action. On September 9, 2004 the Commission discussed the applications under Old Business and recommended that the applications be approved with stipulations attached to the conditional use.**

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

**(See the minutes of the Planning and Zoning Commission dated August 19, and September 9, 2004 for additional information on these applications, correspondence received, and the Public Hearings before the Commission.)**



**Public  
Hearings/  
C/Z**

**No. 1551  
and  
C/U**

**No. 1551  
(continued)**

The Council found that Don Short and Fred Ellingsworth of Shorts Marine were present with James Fuqua, Attorney. Mr. Fuqua stated in his presentation that, in November of 2003, the application was filed as a change of zone from GR to AR-1 and a conditional use since there was no method of applying for a conditional use in a GR District. He stated that since that time, the County Council has amended the Code to permit conditional uses in the GR District. For this reason, he stated that the applicant would agree to withdraw the change of zone application and proceed with the conditional use application.

Mr. Griffin advised the Council that they should proceed with both applications, as advertised.

Mr. Fuqua stated that Shorts Marine operates several boat storage facilities in the area; that since 1999, they have operated a boat storage yard at Road 299 and Route 24 on 10 acres of leased land; that the primary business location is on Long Neck Road; that the proposed storage yard will be used for long term seasonal storage; that they propose to install a 7 foot chain link fence around the property; that security lighting will be provided; that the entrance will be from County Road 306A; that the entrance will be improved with crusher run; that a church cemetery exists immediately adjacent to the entrance; that they are willing to provide a landscape buffer around the cemetery; that there will be a drive-in gate and a walk-in gate; that keys to the gates are maintained by the business; that the grass will be maintained on a regular basis; and that the only activity on the site will be boat and trailer storage.

Mr. Fuqua stated that the applicant agrees to the conditions recommended by the Planning and Zoning Commission with the exception of the one that states “Anyone visiting the site shall be accompanied by a Shorts Marine employee.” Mr. Fuqua suggested that the condition be changed to “Anyone visiting the site shall be under the supervision of a Shorts Marine employee.”

Mr. Fuqua read a letter into the record from Bryan Clark of the Friendship United Methodist Church. In the letter, Mr. Clark states that the Church’s primary concern was some sort of buffer zone around Friendship’s cemetery on Friendship Road. He further stated that it is their understanding that Shorts Marine will provide a natural buffer of greenery such as Leyland Cypress outside the fencing facing the cemetery and that they are in agreement with the proposed buffer. Mr. Clark stated that, for this reason, the Church withdraws their opposition to the proposal.

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

**M 557 04  
Adopt  
Ordinance  
No. 1717**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1717 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL

**(C/Z  
No. 1551)**      **RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.7806 ACRES, MORE OR LESS, OF A 95.21 ACRE TRACT” (Change of Zone No. 1551) filed on behalf of Shorts Marine.**

**Motion Adopted:      4 Yea, 1 Abstention.**

**M 557 04  
(continued)**      **Vote by Roll Call:      Mr. Phillips, Yea; Mr. Cole, Yea;  
   Mr. Rogers, Abstained; Mr. Jones, Yea;  
   Mr. Dukes, Yea**

**(Mr. Rogers was not present during the Public Hearing.)**

**M 558 04  
Adopt  
Ordinance  
No. 1718  
(C/U  
No. 1551)**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1718 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT STORAGE YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.7806 ACRES, MORE OR LESS, OF A 95.21 ACRE TRACT” (Conditional Use No. 1551) filed on behalf of Shorts Marine, with the following conditions:**

- 1. The site plan shall be subject to all appropriate agency approvals.**
- 2. The storage facility shall be left open during daylight hours only for the storage of boats and trailers.**
- 3. The perimeter of the site shall be fenced with a 7-foot high chain-link type of fencing.**
- 4. No maintenance of boats or trailers shall be performed on the site.**
- 5. Anyone visiting the site shall be under the supervision of a Shorts Marine employee.**
- 6. The only structure to be located on the site shall be a 10-foot by 14-foot shed.**
- 7. Security lighting shall be provided on the site using lights that are directed away from neighboring properties.**
- 8. There shall be a screening landscape buffer along the entrance road and perimeter of the property adjacent to the cemetery of the Friendship United Methodist Church.**
- 9. The grass shall be maintained on a regular basis.**

**Motion Adopted:      4 Yea, 1 Abstention.**

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

**(Mr. Rogers was not present during the Public Hearing.)**

**Public  
Hearing**      **A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**

(C/U  
No. 1552)      **AR-1      AGRICULTURAL      RESIDENTIAL      DISTRICT      FOR  
PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN  
PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED,  
SUSSEX COUNTY, CONTAINING 1.5417 ACRES, MORE OR LESS”  
(Conditional Use No. 1552) filed on behalf of NCORB, LLC.**

**Public  
Hearing  
(C/U  
No. 1552)**      **The Planning and Zoning Commission held a Public Hearing on this  
application on August 19, 2004 at which time they recommended that the  
application be approved, with conditions.**

**(continued)**      **(See the minutes of the Planning and Zoning Commission dated August 19,  
2004 for additional information on the application, correspondence  
received, and the Public Hearing before the Commission.)**

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

**Mr. Lank, Director of Planning and Zoning, distributed an Exhibit Booklet  
provided by the Applicant, containing a tax map highlighted with the  
zonings in the area; photographs of the site and surrounding uses; a site  
plan; an elevation drawing of the proposed building; portions of the 2002  
Comprehensive Plan Update; a copy of the DelDOT Support Facilities  
Report; a copy of the letter from the Office of State Planning Coordination;  
and suggested conditions of approval.**

**The Council found that Dr. Paula Nadig was present with Tim Willard,  
Attorney, and John Lester of Design Ideas, Inc. They stated that the  
construction of a 9,000 square foot professional office building is proposed;  
that the site is currently undeveloped and is not being farmed; that the use  
will serve an area where a lack of medical services exists; that there are no  
pediatricians in the Ocean View area; that ditches exist on two sides of the  
site; that the entrance to the site is located on Muddy Neck Road; that there  
is a shoulder on both sides of the road; that the site adjoins several  
residential projects and is in close proximity to other commercial uses and  
zones; that appropriate parking will be provided; that the building will  
contain four office units; that Dr. Nadig is a pediatrician affiliated with A.I.  
DuPont and Beebe Hospital; that Dr. Nadig will open a practice in one of  
the units; and that Dr. Nadig hopes to lease the remaining units for medical  
or health care professionals to serve the community.**

**Mr. Willard read a letter into the record from Thomas Banks, who  
supports the application. In his letter, Mr. Banks spoke on behalf of his  
mother, Birdine Banks, who owns one of the properties adjoining the  
proposed project.**

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

**M 559 04**  
**Adopt**  
**Ordinance**  
**No. 1719**  
**(C/U**  
**No. 1552)**  
**M 559 04**  
**(continued)**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1719 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.5417 ACRES, MORE OR LESS” (Conditional Use No. 1552) filed on behalf of NCORB, LLC., with the following conditions:

1. The offices shall be limited to professional medical health care and other professional service oriented occupations, and shall not include building contractors, building tradesmen, or real estate offices.
2. There shall be no more than four office units.
3. There shall be no outside storage or uses.
4. There shall be no retail business conducted from the premises.
5. The Applicant shall adhere to all government regulations, including DelDOT entrance permits and DNREC water supply licensing.
6. The Applicant’s project shall proceed according to the site plan approved by the Planning and Zoning Commission.
7. The parking lot and building shall be appropriately lighted for safety and security with downward illumination for screening from neighboring properties.
8. A landscaped buffer shall be provided as recommended by DNREC to prevent surface water run-off into the tax ditches.
9. Signs shall only be placed on the building identifying the various professional offices. One lighted ground sign, not exceeding 32 square feet per side or facing shall be permitted.
10. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals and/or permits.
11. The applicant shall be required to comply with any recorded easements in reference to the tax ditches.
12. The dumpster location shall be at the rear of the parking lot and shall be subject to site plan review.
13. Parking shall be provided at a ratio of at least one space for each two employees and four spaces for each doctor.

**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. 1549)**

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 MEDICAL OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX

**COUNTY, CONTAINING 14,998 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1549) filed on behalf of Ramon A. Rosa and Lourdes Aponte De Rosa.**

**Public  
Hearing  
(continued)**

**The Planning and Zoning Commission held a Public Hearing on this application on August 19, 2004 at which time they recommended that the application be approved, with conditions.**

**(See the minutes of the Planning and Zoning Commission dated August 19, 2004 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)**

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

**The Council found that no one was present on behalf of the application.**

**Mr. Stickels informed the Council that he had telephoned and spoke with the Applicant and that she told him that she had telephoned the Planning and Zoning Department and was advised by an employee of that Department that the Planning and Zoning Commission approved the application; that it was now up to the Sussex County Council; and that she did not have to do anything further. The Applicant stated that based on the information received, she did not think that she had to attend the County Council’s public hearing.**

**Mr. Lank, Director of Planning and Zoning, stated that the applicant received a copy of the Public Notice and a letter, which includes the statement that “it is necessary for the Applicant to be present or its representative”.**

**The members of the County Council agreed that there was evidence of confusion relating to information provided to the applicant by County staff and for this reason, no action should be taken and the public hearing before the County Council should be recessed and readvertised to be continued at a later date.**

**M 560 04  
Recess  
Public  
Hearing  
(C/U  
No. 1549)  
and Re-  
advertise  
Public  
Hearing**

**A Motion was made by Mr. Cole, seconded by Mr. Rogers, to recess the Public Hearing on Conditional Use No. 1549, an application of Ramon A. Rosa and Lourdes Aponte De Rosa and to readvertise the Public Hearing before the County Council for the next available date.**

**Motion Adopted: 5 Yea.**

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

**M 561 04  
Adjourn**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to adjourn at 2:55 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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