



## *Sussex County Council Agendas & Minutes*

### **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 1, 2005**

#### **Call to Order**

The regular meeting of the Sussex County Council was held Tuesday, November 1, 2005 at 10:00 a.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>George B. Cole</b>	<b>Member</b>
<b>Dale R. Dukes</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 579 05 Approve Agenda**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the Agenda, as posted on October 25, 2005.

**Motion Adopted: 5 Yea.**

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

#### **M 580 05 Approve Minutes**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of October 18, 2005.

**Motion Adopted: 5 Yea.**

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

#### **Corre- spondence**

Mr. Griffin read the following correspondence:

**SECRETARY NATHAN HAYWARD III, DELAWARE DEPARTMENT  
OF TRANSPORTATION, DOVER, DELAWARE.  
RE: New Clear Zone legislation, which DelDOT will start to enforce on**

November 1, 2005.

**DELAWARE TECHNICAL & COMMUNITY COLLEGE,  
GEORGETOWN, DELAWARE.**

**RE: Invitation to Donor Appreciation Reception on Tuesday, November 15, 2005.**

**M 581 05**  
**Execute**  
**Wastewater**  
**Agreements/**  
**White**  
**Creek**  
**Landing**

**A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 518, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Toll Brothers, Inc., for wastewater facilities to be constructed in White Creek Landing, located in the Millville Sanitary Sewer District.**

**Motion Adopted: 5 Yea.**

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

**Adminis-  
trator's  
Report**

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

**1. Cain Construction Application - C/U No. 1640**

**Please be advised that the Planning and Zoning Department has received a letter to withdraw application C/U No. 1640 filed on behalf of Cain Construction. They have received notification from the State of Delaware that there may be contaminants in the soils. Planning and Zoning was to hear the application on November 17, and the County Council was to hear the application on December 13, 2005.**

**2. Beneficial Acceptance**

**The Engineering Department granted Beneficial Acceptance on October 26, 2005, for Ellis Point, Agreement No. 334. The project is located at the intersection of County Roads 346 and 346-B in the Holts Landing Sanitary Sewer District, consisting of 56 townhouses. Included with this report is a fact sheet on the project.**

**Old  
Business/  
C/U  
No. 1619**

**The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19,723 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1619) filed on behalf of Helena R.**

**Dove.**

**The Planning and Zoning Commission held a Public Hearing on this application on August 25, 2005 at which time they deferred action. On October 13, 2005, the Commission recommended that the application be approved with nine conditions.**

**Old  
Business/  
C/U  
No. 1619  
(continued)**

**The County Council held a Public Hearing on this application on September 20, 2005 at which time they deferred action.**

**Mr. Cole referred to the County Engineering Department's comments that they do not support the proposed project's density of 11.04 units per acre and that approval of the project at an increased density in this area has the potential to (1) be a detriment to the treatment plant, (2) create line deficiencies, (3) cause significant capacity issues in this drainage area and (4) limit options for other property owners. Mr. Cole stated his opinion that the Council should not approve something that is going to cause deficiencies in the future.**

**M 582 05  
Amend  
Density  
of Project/  
C/U  
No. 1619**

**A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to amend the proposed density of the project by reducing it from 5 units to 2 units.**

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

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

**M 583 05  
Adopt  
Ordinance  
No. 1798  
(C/U  
No. 1619)**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1798 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19,723 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1619) filed on behalf of Helena R. Dove, with the following conditions:**

- 1. Only two (2) units shall be constructed upon the property.**
- 2. The project shall be subject to the approval of the Sussex County Engineering Department. The applicant shall be required to design, fund and construct any upgrades to the County sewer system that are necessary to serve the dwelling units.**
- 3. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday.**
- 4. There shall be at least three (3) parking spaces per unit.**

- M 583 05**  
**Adopt**  
**Ordinance**  
**No. 1798**  
**(C/U**  
**No. 1619)**  
**(continued)**
5. The project shall not exceed the County's height and setback requirements.
  6. All entrances and right-of-ways required by DelDOT shall be obtained by the applicant in accordance with DelDOT's determinations.
  7. Six (6) foot fencing shall be installed around the rear and side perimeter of the property with natural landscaping. The fence and landscaping shall be shown on the Final Site Plan.
  8. Lighting from the parking areas shall be screened away from the neighboring properties. In addition, the lighting shall be low-intensity to prevent glare.
  9. The site plan shall be subject to the approval of the Planning and Zoning Commission.
  10. Project and street naming and addressing shall be subject to the approval of the Sussex County Mapping and Department.

**Motion Adopted: 5 Yea.**

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

**Request** **Mr. Stickels presented a grant request for the Council's consideration.**

**M 584 05**  
**Council-**  
**manic**  
**Grant**

**A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$250.00 from Mr. Phillips' Councilmanic Account to the Delmar Chamber of Commerce for the 2005 Citizen of the Year banquet.**

**Motion Adopted: 5 Yea.**

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

**Introduction**  
**of Proposed**  
**Ordinance**

**Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GIFT SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 38,653 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1655) filed on behalf of Edward Chiasson. The Proposed Ordinance will be advertised for Public Hearing.**

**President Jones recognized members of a writing class from Delaware Technical & Community College who were in attendance to observe the County Council meeting.**

**Public**  
**Hearing/**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX**

**Proposed  
Ordinance  
Regarding  
Pensions**

**COUNTY BY AMENDING §26-6 REGARDING PENSION ELIGIBILITY  
AND §26-7 REGARDING THE COMPUTATION OF BENEFITS”.**

**Public  
Hearing/  
Proposed  
Ordinance  
Regarding  
Pensions  
(continued)**

Mr. Baker explained that this amendment is two-fold. The amendment to §26-6 makes the pension vesting requirements for County elected officials comparable to that of State elected officials to receive a State of Delaware pension, so that County elected officials will be allowed to retire and receive a pension with five years of elected official service at the age of 60 or ten years of elected official service at the age of 55. Secondly, the amendment to §26-7 will grant County employees with United States Military Service who are honorable discharged one additional year of service for two years or more of military service. It was noted that the additional year does not count toward vesting, pension eligibility or post retirement benefit eligibility. It was also noted that the proposed amendment does not change the formula on which the amount of a pension is determined; it changes when a retired official may begin collecting a pension.

Councilmen Rogers, Cole and Dukes would be eligible for the military service credit.

Public comments were heard. Daniel Kramer stated that he has no objection to the servicemen and veterans receiving something but he does have an objection to elected County officials being eligible. Mr. Kramer stated that “You guys are going to vote yourselves a benefit you don’t deserve”.

Mr. Baker noted that the proposal would bring the County’s vesting requirements more in line with other local governments.

The Public Hearing was closed.

**M 585 05  
Adopt  
Ordinance  
No. 1799**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Ordinance No. 1799 entitled “AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY BY AMENDING §26-6 REGARDING PENSION ELIGIBILITY AND §26-7 REGARDING THE COMPUTATION OF BENEFITS”.

**Motion Adopted: 5 Yea.**

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

**M 586 05  
Recess**

At 10:55 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Rogers, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

**Reconvene**

Mr. Jones called the Council back into session at 1:35 p.m.

**Public**

A Public Hearing was held on the Proposed Ordinance entitled “AN

**Hearing/  
C/U  
No. 1622**

**ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ANTIQUE SHOP AND AUCTION GALLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.70 ACRES, MORE OR LESS” (Conditional Use No. 1622) filed on behalf of Evard B. Hall.**

**Public  
Hearing/  
C/U  
No. 1622  
(continued)**

**The Planning and Zoning Commission held a Public Hearing on this application on October 13, 2005 at which time they recommended that the application be approved, with conditions.**

**(See the minutes of the Planning and Zoning Commission dated October 13, 2005 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 and recommendation of approval. The summary was admitted as part of the County Council’s record.**

**The Council found that Evard Hall was present and stated in his presentation that the he proposes an antique shop and public auction facility in the existing 2,200 square foot building; that all auctions would be conducted inside the existing building; that there would be no outside storage when the site is not being used to conduct an auction; and that cars for estates sales could be stored inside the building;**

**Mr. Hall submitted a petition consisting of 15 signers in support of the proposed ordinance. The petition was admitted into the record.**

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

**M 587 05  
Adopt  
Ordinance  
No. 1800  
(C/U  
No. 1622)**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1800 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ANTIQUE SHOP AND AUCTION GALLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.70 ACRES, MORE OR LESS” (Conditional Use No. 1622) filed on behalf of Evard B. Hall, with the following conditions:**

- 1. Auction sales shall occur no more than four (4) times per year, and only from 10:00 a.m. to 8:00 p.m. on Friday and Saturday. The antique shop shall be open for business four (4) days per week, Thursday and Sunday, from 9:00 a.m. until 5:00 p.m. and Friday and Saturday from 9:00 a.m. until 8:00 p.m.**
- 2. No trash shall accumulate on the property.**
- 3. The auction shall be limited to items such as estate items, furniture,**

antiques and household items. No automobiles shall be sold unless they are part of an estate sale.

4. Security lighting shall be provided with downward screening on the lights. The location of any security lighting shall be shown on the final site plan.
5. The applicant shall comply with all DelDOT requirements, including entrance permits.
6. There shall be no outside storage when the site is not being used as an auction.
7. One (1) lighted on-premise ground sign, not exceeding 32 square feet per side or facing, may be permitted.
8. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

**M 587 05**  
**Adopt**  
**Ordinance**  
**No. 1800**  
**(C/U**  
**No. 1622)**  
**(continued)**

**Motion Adopted: 5 Yea.**

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

**Public**  
**Hearing**  
**(C/U**  
**No. 1623)**

**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 ELECTRICAL CONTRACTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 4.64 ACRES, MORE OR LESS” (Conditional Use No. 1623) filed on behalf of Dawson & Bedsworth Electrical Contractors, Inc.**

**The Planning and Zoning Commission held a Public Hearing on this application on October 13, 2005 at which time they recommended that the application be approved, with conditions.**

**(See the minutes of the Planning and Zoning Commission dated October 13, 2005 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 and recommendation of approval. The summary was admitted as part of the County Council’s record.**

**In response to questions raised by the Council, Mr. Lank stated that the site was violated in July 2004 for opening and operating an electrical business in an AR District without approval.**

**It was noted that the applicant would have to obtain an entrance permit from DelDOT.**

**The Council found that Gregory Bedsworth of Dawson and Bedsworth**

Public  
Hearing  
(C/U  
No. 1623)  
(continued)

Electrical Contractors, Inc. was present with Martin Cosgrove, Attorney, on behalf of this application. They stated in their presentation that they are requesting permission to operate an electrical business out of existing buildings on the site; that the company provides residential, commercial, and industrial service; that they currently do work for three poultry industries; that the site consists of 4.6 acres and contains a dwelling and a warehouse; that the house is being utilized for office space and the old two-story chicken house was converted to a warehouse; that on-site water and sewer exist on the site for the office; that there is no need or plans for water or sewer service for the warehouse facility; that the front of the property is screened with numerous trees; that they plan to install additional screening; that the majority of work is conducted off-site and they do not have many walk-in customers; that security lighting already exists on the site and that they do not propose any changes to the lighting; that they would like to erect a 32 square foot unlighted sign; and that they filed an application as soon as they found out they were in violation of County ordinance.

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

Mr. Cole recommended that, if the application is approved, the following condition should be included: “There shall be no fabrication activities conducted on the site.”

M 588 05  
Adopt  
Ordinance  
No. 1801  
(C/U  
No. 1623)

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1801 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL CONTRACTING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 4.64 ACRES, MORE OR LESS” (Conditional Use No. 1623) filed on behalf of Dawson & Bedsworth Electrical Contractors, Inc., with the following conditions:

1. All trucks and trailers associated with the electrical contracting business shall only be parked in the designated parking area as shown on the site plan.
2. There shall only be one unlighted sign on the premises that shall not exceed 32 square feet per side or facing.
3. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or towards Route 9.
4. No outside storage, except for vehicles and trailers shall be allowed on the premises.
5. The hours of operation for the business on this site shall be limited to 6:00 a.m. to 7:00 p.m., 7 days per week, except for emergencies.
6. The site plan shall be subject to the approval of the Planning and Zoning Commission upon receipt of all appropriate agency permits and approvals.
7. The dumpster shall be designated on the site plan and shall be



**screened from view from neighboring properties.**

**8. There shall be no fabrication activities conducted on the site.**

**Motion Adopted: 5 Yea.**

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

**M 589 05  
Adjourn**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at  
2:10 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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