



## *Sussex County Council Agendas & Minutes*

### **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 8, 2005**

**Call to Order**            The regular meeting of the Sussex County Council was held Tuesday, November 8, 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>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 590 05**            A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the  
**Approve**            Agenda of November 8, 2005.  
**Agenda**

**Motion Adopted:     5 Yea.**

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

**M 591 05**            A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the  
**Approve**            minutes of October 25, 2005.  
**Minutes**

**Motion Adopted:     5 Yea.**

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

**Corre-**            Mr. Griffin read the following correspondence:  
**spondence**

**DELAWARE     COMMUNITY     FOUNDATION,     GEORGETOWN,  
DELAWARE.**

**RE:   Letter in appreciation of the Council's \$100,000 contribution to the  
Delaware Youth Opportunities Fund at the Delaware Community**

**Foundation.**

**EL CENTRO CULTURAL, INC. GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of the Council's support and participation in Festival Hispano 2005.**

**(continued) FENETTE ESTHER BURTON, SEAFORD, DELAWARE.**

**RE: Letter of appreciation to the Sussex County Community Development Office for financial assistance to replace her broken heater.**

**Draft  
Ordinance  
Relating to  
AR-1  
Cluster/  
Develop-  
ments**

The County Council discussed a draft ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 SECTION 25 OF THE CODE OF SUSSEX COUNTY, TO ADD A REQUIREMENT THAT ALL AR-1 CLUSTER DEVELOPMENTS BE LOCATED WITHIN A DEVELOPMENT DISTRICT AS SHOWN ON THE ADOPTED COMPREHENSIVE PLAN FOR SUSSEX COUNTY". The draft ordinance proposes that the following language be added to the Subdivision Ordinance: "The cluster development lies within a Town Center, a Developing Area, or an Environmentally Sensitive Developing Area (1) as described within the Land Use Element and (2) as shown on the Future Land Use Plan of the adopted Sussex County Comprehensive Plan." The proposed amendment would restrict the location where an AR-1 Cluster Development can be approved to specific growth areas described in the Comprehensive Plan.

Mr. Cole stated that he asked for the ordinance to be drafted for the purpose of introduction on November 15, 2005 due to problems with the current cluster ordinance. He noted that when cluster housing was initially discussed several years ago during the Land Use Plan public hearings, it was discussed as a way to encourage and provide an incentive for developers to build in the Development District and to cluster housing and provide more open space. He noted however, that it was his recollection that it was not intended for the Agricultural District, where development should not be encouraged. Mr. Cole stated that what has happened is that it became a County-wide ordinance and there has been a flurry of activity in the Agricultural District where cluster housing is out of character with the area and causing a loss of farmland. Developers are purchasing agricultural land and going to the State DNREC and getting approval for onsite collection systems. Mr. Cole stated that the purpose of the draft ordinance is to put cluster housing back in the Development District where it belongs. He reported that letters of support have been received from three State agencies: DNREC, the Department of Agriculture and the Office of State Planning Coordination. These agencies have indicated their support of the draft cluster ordinance. The letters were distributed to the Council and made a part of the record.

In response to questions asked by Mr. Cole, Mr. Lank, Director of Planning

Draft  
Ordinance  
Relating to  
AR-1  
Cluster/  
Develop-  
ments  
(continued)

and Zoning, reported that only one RPC has been approved since the original cluster ordinance was approved and that some RPC applications were withdrawn after that time. He stated that DNREC has been granting feasibility for septic for cluster projects with 1/2 acre lots.

Mr. Cole stated that he thought the opinion of the Council was that RPCs were preferable since conditions could be placed on an RPC during the approval process to address issues such as environmental concerns, traffic, etc. He noted that cluster projects do not have to come before the County Council for approval.

Mr. Lank stated that the Planning and Zoning Commission does impose the same conditions on cluster housing that the County Council imposes on RPCs. He noted that Cluster Developments go through the PLUS process as any other subdivision.

Mr. Dukes stated that it was his understanding that the Cluster Ordinance was originally designed to apply to the entire County and that he would not support it being limited to the Development District. He noted; however, that he would not object to the Council making some amendments to the Cluster Ordinance since the bonus density is more than he anticipated. He stated that he would support amending a decreased bonus density outside of the Development District, for example a percentage could be taken off for roads. Mr. Dukes noted that he is sensitive to farmers who want to sell their land and that he would be opposed to disallowing cluster subdivisions in the AR District.

Mr. Cole stated that he supports one unit per acre (the 3/4 acre subdivision) in the Agricultural District to maintain the rural character of that District.

Mr. Stickels stated that the County's Land Use Plan states that if the clustering option is chosen, the number of lots allowed shall not exceed the density allowed under the current ordinance.

Mr. Phillips stated that public hearings were held on the current cluster ordinance and the Land Use Plan and that the goal of the ordinance was to preserve more open space, conserve land, protect wetlands and reduce impervious surface. Mr. Phillips stated that he disagrees with amending the cluster ordinance. Mr. Phillips also expressed concern about land supply and the effect it would have on affordable housing.

Mr. Cole suggested that in addition to the draft ordinance presented at this meeting, that another ordinance could be drafted incorporating Mr. Dukes' proposal to see if there is any support from the State agencies.

Mr. Stickels recommended that another proposed ordinance be drafted, which would include Mr. Dukes' suggestions regarding the AR District, for introduction and public hearing. At the time a decision is made on the adoption or denial of the ordinance, a determination could be made as to

the reference to the AR District (reducing the gross area by twenty-five percent (25%).

Mr. Rogers expressed concern that the amenities package has been unacceptable in the cluster developments.

**Draft Ordinance (continued)** Mr. Griffin was directed to draft an ordinance incorporating both options and that the new draft would incorporate the requirement that cluster developments in an AR District would be based on net density.

**University of Delaware College of Agriculture Grant** The County Council presented a grant check in the amount of \$215,782.00 to the University of Delaware College of Agriculture in Sussex County. Mr. Stickels noted that \$63,911 is to be used for extension research, \$14,500 for poultry research, \$26,166 for crop research, \$11,205 for the Lasher Laboratory and \$100,000 for the new Carvel Research & Education Center. Mark Isaacs, Director of the Research and Education Center, was present to accept the check and he thanked the Council for their continued support of their extension and research programs and facilities construction. He stated that the \$100,000 in funding for the Carvel Research & Education Center would be used for the second floor conference room. He stated that they plan to move into the facility in January 2006.

**Easter Seals Grant** The County Council presented a check in the amount of \$250,000 to Easter Seals to help pay for the construction of a new facility to serve people with disabilities in Sussex County. David Doane, Member of the Board of Directors of Easter Seals, was present to accept the check. The check brings the total amount provided for this project by the Sussex County Council over the last two years to \$500,000. Mr. Doane stated that the construction of the facility should be completed in Spring 2006 and that the new facility will enable them to consolidate their services in Sussex County.

**Local Law Enforcement Funding Requests** Mr. Stickels presented the following funding requests from local law enforcement agencies:

Rehoboth Beach	\$ 5,448.00	Lights and Sirens for Police Car
Ocean View	\$13,374.74	Software for Mobile Data Terminals, Restraint Chairs, Computers, Printer, Etc.
South Bethany	\$23,952.03	Computers & Mounts, Adapters & Antennas, Taser & Radar Systems

**M 592 05 Approve Local Law** A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the Revenue Sharing for Local Law Enforcement Agencies, as presented.

**Motion Adopted:** 5 Yea.

**Enforce-  
ment  
Funding  
Requests**

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

**Mr. Stickels reported that, to date, the County has allocated a total of \$317,086.43 to fifteen Local Law Enforcement Agencies under this program.**

**Agree-  
ment**

**Mr. Stickels presented wastewater agreements for the Council's consideration.**

**M 593 05  
Execute  
Waste-  
water  
Agreement/  
The  
Retreat**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 328-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and S&B Land, LLC, for wastewater facilities to be constructed in The Retreat – Phase 1B, located in the North Coastal Planning Area.**

**Motion Adopted:    5 Yea.**

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

**M 594 05  
Execute  
Waste-  
water  
Agreement/  
Bayview  
Landing**

**A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 366, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bayview Ventures I, Inc., for wastewater facilities to be constructed in Bayview Landing – Phase II, located in the Fenwick Island 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**

**Draft  
Ordinance  
Relating to  
Sheriff's  
Fees**

**The County Council considered a draft ordinance to raise the Sheriff's fees for certain services, i.e. mileage, levy, fax levy, service of Deputy, service of Sheriff/Levy, and Service/Out of State Paper. This amendment would revise the fees charged by the County Sheriff to amounts that are currently appropriate based on the amount of work and expense involved to cover the cost of providing services.**

**Introduction  
of Proposed  
Ordinance**

**Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE IV §62-15 RELATING TO SHERIFF'S FEES".**

**The Proposed Ordinance will be advertised for Public Hearing.**

**Federal  
Equitable  
Sharing  
Agreement**

Sheriff Reed presented a Federal Equitable Sharing Agreement, which requires the approval of the head of a governing body. The Agreement sets forth the requirements for participation in the federal equitable sharing program and the restrictions upon the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably shared with participating law enforcement agencies.

**Federal  
Equitable  
Sharing  
Agreement  
(continued)**

Mr. Reed explained that this Agreement would help secure funding from asset forfeiture – funds from property seized in the County from a drug bust or event of that nature. He noted that receipt of the funds would not be automatic and that the Agreement is only a mechanism for applying for funding. An application would have to be filed following any incident. Under the agreement, any funds received would have to be used for law enforcement purposes in accordance with the statutes and guidelines that govern equitable sharing, i.e. training, purchase of equipment, etc. Any funds received would be held by the County for use by the Sheriff's Department.

Mr. Baker expressed concern that it appears that any funds collected as part of this Agreement would be a part of the County's A133 Federal Funds Annual Audit and he would like the opportunity to review the rules and regulations that apply to it and to obtain additional information from the Agency before it is executed.

Mr. Griffin requested any additional information that the Sheriff may have relating to this Agreement for further review.

It was decided that once Mr. Baker and Mr. Griffin have obtained the necessary information, the matter would be placed on the agenda for further action.

**Adminis-  
trator's  
Report**

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

**1. Veterans' Day**

All County offices will be closed on Friday, November 11, 2005, to allow employees to observe Veterans' Day. Offices will reopen on Monday, November 14, 2005, at 8:30 a.m. Currently there are 47 employees that are military veterans.

**2. Public Workshop**

The Delaware Department of Transportation (DelDOT) is holding a Public Workshop to solicit public input on proposed changes to State Route 54 and State Route 20, between Zion Church Road and State Route 1, Fenwick Island. The workshop will be held on Monday, December 5, 2005, at the Roxana Fire Hall, 35943 Zion Church Road, Roxana, Delaware. The public is invited to attend any time

between 5:00 and 7:00 p.m.

DelDOT is currently reviewing roadways statewide that are identified by multiple route numbers. As part of this project, DelDOT is reviewing State Route 54 and State Route 20, which are the same roadway between Zion Church Road and State Route 1 in Fenwick Island. DelDOT is considering eliminating the State Route 20 designation along this segment. Route 54 would begin at the Maryland State Line on the west side of Sussex County and head east, ending at State Route 1.

Adminis-  
trator's  
Report  
(continued)

3. Beneficial Acceptance

The Engineering Department granted Beneficial Acceptance on October 24, 2005, to Bayview Landing, Phase I, Agreement No. 331. This project is located on the north side of Route 54, east of Swann Keys, in the Fenwick Island Sanitary Sewer District, consisting of 68 townhouses and eight single-family lots. Included with this report is a fact sheet on the project.

Public  
Hearing/  
Proposed  
Ordinance  
Relating  
to Appeals

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE VIII RELATING TO APPEALS".

This Amendment would revise the appeals provisions of the Subdivision Ordinance. It would eliminate the ability to have a public hearing on a subdivision appeal before both the Commission and the Council. It would require the standard of review to be applied on appeal and would require the appealing party to pay for the preparation of a hearing transcript and to pay an appeal fee for each level of review. It would also allow an appeal to be filed from either the approval or disapproval of a plat as required by 9 Delaware Code §6811, whereas the present wording only allows an appeal to be filed by an applicant (developer) from the denial of a plat.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission conducted a Public Hearing on the Proposed Ordinance on November 3, 2005. The Commission discussed the proposed ordinance amendments and there was a consensus that a few minor changes may be appropriate. The Commission recommended a revision to the Proposed Ordinance to clarify that appeals would go from the Commission to the Council and not repeatedly go back to the Commission. Assistant County Attorney Vince Robertson stated that he and Mr. Kautz would get together to prepare the amendment to the proposed ordinance. The Commission deferred action.

Mr. Griffin clarified that any appeal to the County Council would be based on the record before the Planning and Zoning Commission and that the County Council would not hold an additional public hearing. Council's possible action on an appeal would be:

**Public  
Hearing  
Relating  
to Appeals  
(continued)**

- May send the matter back to the Commission for further review and consideration and, if the Council considers it necessary, it may direct that the Commission hold a new hearing, specify the time period within such hearing shall be held and direct the Commission to issue a written decision containing findings and conclusions following the rehearing.
- May reverse a decision only upon a finding that the Commission made an error in its interpretation of the applicable sections of this Chapter; or the Commission's findings and conclusions were not the result of an orderly and logical review of the evidence and the applicable provisions of this Chapter.
- Shall act on the record of the hearing before the Commission and shall not hold an additional public hearing.

It was noted that there is nothing in the proposed ordinance setting a time constraint on when the County Council must act on appeal.

Mr. Cole questioned if a time period should be included in the proposed ordinance. He also questioned if the developer could move forward with the development if an appeal was filed. It was suggested that these issues could be clarified in the Proposed Ordinance by incorporating a clause that would prohibit the developer from moving forward during a pending appeal and setting a time by which the Council must act on an appeal.

Public comments were heard.

Mabel Granke spoke on behalf of the Citizens Action Foundation. She stated that the Foundation supports the proposed revision since it levels the playing field and allows for equal access to the process for both the citizen or citizen organization and the applicant in any potential appeal.

Michael Tyler spoke on behalf of the Citizens Coalition. He supported comments made by Mabel Granke and expressed concern that any appeal should have merit.

Daniel Kramer of Greenwood questioned the type of developments the draft ordinance would apply to; questioned the appeal process; questioned the lack of a time limit when the Council has to take action, which will tie up a developer; and suggested that the fee for filing an appeal be raised from \$500 to \$5,000.

Ernest Zinzer of Rehoboth Beach expressed concern that the proposed ordinance would permit anyone to file an appeal for a relatively minor fee; that the \$500 fee is too low; that the fee should be raised to deter frivolous appeals; that a developer could be tied up for a countless period of time; that there is no stipulation on how soon the Council must act on an appeal; and that the proposed ordinance, if enacted, should grandfather in those projects which are already in the process so that any approval already granted by the Commission could not be appealed under this proposed



**ordinance.**

**Public  
Hearing/  
Proposed  
Ordinance  
Relating  
to Appeals  
(continued)**

**Preston Dyer of Ocean View expressed concerns and stated that the proposed ordinance refers to “Any approval or disapproval of a preliminary or final plat by the Commission may be appealed...; that it was previously stated that the proposed ordinance only refers to a preliminary plat; that preliminary approval is from a public hearing and final approval is granted after all appropriate agency approvals have been obtained; and that the clause should be modified to refer to preliminary plats only – to delete the reference to final plats.**

**Mr. Griffin referred to Delaware Code, Title 9, Section 68-11, which states that “any approval or disapproval may be appealed to the County government within 30 days of the official action... The Commission shall approve or disapprove a plat within 45 days after the submission thereof; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Commission upon demand...The grounds of disapproval of any plat shall be stated upon the record of the Commission...No plat shall be acted upon by the Commission without affording a hearing thereon...” Following his reference to the Delaware Code, Mr. Griffin noted that the statute does not delineate between preliminary and final. Mr. Griffin clarified that citizens can appeal the approval of a final plat to the courts.**

**Mr. Dyer also stated that the appeal right exists for any aggrieved party or the applicant to Superior Court and the County needs to be careful in its examination of the proposed ordinance; that he believes if there is an appeal to Superior Court and the appellant does not seek a stay, the project may proceed with the posting of a bond; that the County’s proposed ordinance is not in agreement with the court process; that the County should try to tailor its process with the courts; that there has to be a threshold of merit established; that the proposed ordinance should address the issues of time and tighten down the appeal process; that he suggests a 20 day appeal period, a 30 day time period to provide a transcript, and a limitation on the time period (30 days) for the Council to render a decision; that Council should be able to affirm or reverse a decision but it is not appropriate for it to remand it back to the Commission; that the proposed ordinance would have an affect on lending institutions since he has had projects funded on preliminary approval; that the fee to file an appeal should be \$5,000; and that the question of standing has not been addressed – the applicant on the denial has standing so the question is what requirements should be imposed upon an appellant.**

**Frank Kee of Caldera Properties stated that he concurs with every statement made by Mr. Dyer. He questioned if RPCs with subdivision components can be appealed; he questioned how many subdivision appeals can be filed and how many parties can file an appeal and who can file an appeal; he questioned how will an appeal be dealt with that is based on the fact that a subdivision does not demonstrate superior design; and that**

**qualitative appeals should not be allowed.**

**Mike Tyler questioned the amount of the fee to file an appeal in court (\$250) and he stated that the \$500 fee is too much and a tax burden on a citizen.**

**Ken Christenbury of Georgetown suggested that the Council should reduce the timing of the appeal process so that Council can move more quickly on the decision, i.e. so that no more than sixty day passes between the time of the appeal and the Council's decision.**

**Public  
Hearing/  
Proposed  
Ordinance  
Relating  
to Appeals**

**Mark Chura of Ocean Atlantic Associates stated that a well-defined, accessible and open appeal process is critical to any land use planning process; that the appeal component is fundamental to all planning processes; that an equitable process is one where all parties involved are entitled to a timely review of concerns raised, where ground rules are clearly defined, and where appeals are based on merit; that in the proposed ordinance, as written, the ground rules for the appeal require additional clarification since they are somewhat vague; that applicants coming before the Commission need to clearly understand all the requirements necessary to get their project approved; that the appeal process needs to be laid out the same way; that the timing for all phases of the appeal process needs to be defined; that it should be clear that the proposed ordinance only applies to preliminary plan approval; that there are remedies in the court system to appeal a final plan; and that the effective date should be when it is approved.**

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

**The County Council discussed leaving the record open for written comments.**

**It was noted that the record of the Planning and Zoning Commission has been closed.**

**M 595 05  
Defer  
Action &  
Leave  
Record  
Open/  
Proposed  
Ordinance  
Relating  
to Appeals**

**A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to defer action and to leave the record open on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE VIII RELATING TO APPEALS" for a period of two weeks following the County Council's receipt of the Planning and Zoning Commission's recommendation.**

**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/  
Proposed  
Ordinance  
Permits &  
Applications**

**A Public Hearing was held on 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”.**

**Public  
Hearing/  
Proposed  
Ordinance  
Permits &  
Applications  
(continued)**

**This Amendment would revise the fee schedule for building and zoning permits and subdivisions to bring them in line with the County’s current costs of taking applications, issuing permits and holding hearings before the Board of Adjustment, Planning and Zoning Commission and County Council and approving subdivision plats. The fees for the Board of Adjustment are proposed to be increased from \$150.00 to \$400.00 and the fees for a change of zone, a conditional use, and a subdivision are proposed to be increased from \$300.00 to \$500.00.**

**The Planning and Zoning Commission held a Public Hearing on this proposed ordinance on November 3, 2005 at which time they recommended that the proposed ordinance be approved.**

**It was noted that a hand written note on the draft copy of the Ordinance Amendment referenced that a fee of \$25.00 was indicated for a demolition fee. On September 13, 2005, when the County Council introduced the ordinance, 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 introduce the proposed ordinance to include a fee of \$25.00 for demolition.**

**Mr. Lank noted that any demolition approval and fees are handled through the Board of Adjustment Office.**

**Mr. Lank read a letter into the record from the Sussex County Engineering Department stating the reasons why they support the addition of a demolition permit/fee to the proposed ordinance.**

**Public comments were heard.**

**Dan Kramer stated that the \$25.00 demolition fee should remain in the proposed ordinance.**

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

**M 596 05  
Amend  
Proposed  
Ordinance**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the Proposed Ordinance by deleting the inclusion of a \$25.00 “Demolition Fee”.**

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

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

**Mr. Jones, Yea**

**M 597 05**      **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt**  
**Adopt**      **Ordinance No. 1804 entitled “AN ORDINANCE TO AMEND THE CODE**  
**Ordinance**      **OF SUSSEX COUNTY BY AMENDING ARTICLE III, §62-7 RELATING**  
**No. 1804**      **TO PERMITS AND APPLICATIONS AND ARTICLE II, §99-14**  
      **RELATING TO FEES FOR SUBDIVISION APPLICATION, REVIEW**  
      **AND APPROVAL”, as amended.**

**M 597 05**      **Motion Adopted:      5 Yea.**

**(continued)\**

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

**Public**      **A Public Hearing was held to consider extending the West Rehoboth**  
**Hearing/**      **Expansion of the Dewey Beach Sanitary Sewer District to include lands now**  
**West**      **or formerly of Jane Sayers and Charles D. Pollard (Cedar Grove**  
**Rehoboth**      **Expansion).**

**Expansion**      **Mr. Rob Davis of the Engineering Department reported that the proposed**  
**of the**      **expansion is contiguous to the existing sanitary sewer district.**

**DBSSD/**      **Mr. Davis reported that the parcels are proposed to be developed as Cedar**  
**Cedar**      **Grove Estates, consisting of 41 single family dwellings.**

**Grove**      **Mr. Davis reported that no public comments were received in response to**  
**Expansion**      **the Engineering Department’s postings on the Proposed Expansion.**

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

**M 598 05**      **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt**  
**Adopt**      **Resolution No. R 021 05 entitled “A RESOLUTION TO EXTEND THE**  
**R 021 05**      **BOUNDARY OF THE WEST REHOBOTH EXPANSION OF THE**  
      **DEWEY BEACH SANITARY SEWER DISTRICT (WRE) TO**  
      **ENCOMPASS PARCELS OF LAND AT THE INTERSECTION OF**  
      **COUNTY ROADS 275 AND 283, BEING IN LEWES-REHOBOTH**  
      **HUNDRED, SUSSEX COUNTY, DELAWARE”.**

**Motion Adopted:      5 Yea.**

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

**Public**      **A Public Hearing was held to consider extending the Long Neck Sanitary**  
**Hearing/**      **Sewer District (LNSSD) to include the lands of Helene G. and Louis W.**  
**Long Neck**      **Burton to include the vacant parcels of land comprised of lots 55, 56, and**  
**SSD/**      **part of lot 80 of the Steele Development Corporation Subdivision (Burton**  
**Burton**      **Expansion) located at the intersection of County Roads 298 and 299.**

## **Expansion**

**Mr. Davis reported that no public comments were received in response to the Engineering Department's postings on the Proposed Expansion.**

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

## **M 599 05 Adopt R 022 05**

**A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt Resolution No. R 022 05 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE LONG NECK SANITARY SEWER DISTRICT (LNSSD) TO INCLUDE PARCELS OF LAND AT THE INTERSECTION OF COUNTY ROADS 298 AND 299, BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE".**

**Motion Adopted: 5 Yea.**

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

## **Human Service Grants**

**Susan Webb, Director of Accounting, presented a list of proposed Human Service Grants for Fiscal Year 2006 for the Council's consideration. She noted that \$110,000 was budgeted for Human Service Grants.**

<b>Alzheimer's Association</b>	<b>\$ 500.00</b>
<b>ANKH, Inc.</b>	<b>\$ 500.00</b>
<b>Anointed Breadbasket Ministries</b>	<b>\$ 500.00</b>
<b>The Beacon Mission</b>	<b>\$ 500.00</b>
<b>Big Brothers/Big Sisters of Delaware, Inc.</b>	<b>\$1,000.00</b>
<b>Boys &amp; Girls Club of Georgetown</b>	<b>\$1,500.00</b>
<b>Boys &amp; Girls Club of Oak Orchard/Riverdale</b>	<b>\$1,500.00</b>
<b>Bridgeville Community Action Agency</b>	<b>\$1,000.00</b>
<b>Cape Henlopen Food Basket</b>	<b>\$ 500.00</b>
<b>CHEER Centers</b>	
<b>A. Georgetown</b>	<b>\$1,000.00</b>
<b>B. Greenwood</b>	<b>\$1,000.00</b>
<b>C. Harbour Lights (Lewes)</b>	<b>\$1,000.00</b>
<b>D. Oak Orchard</b>	<b>\$1,000.00</b>
<b>E. Roxana</b>	<b>\$1,000.00</b>

	<b>F. Slaughter Neck</b>	<b>\$1,000.00</b>
	<b>G. Coastal Leisure Center</b>	<b>\$1,000.00</b>
	<b>H. Long Neck</b>	<b>\$1,000.00</b>
	<b>Children &amp; Families First</b>	<b>\$1,000.00</b>
	<b>Church of God and Saints of Christ</b>	<b>\$ 900.00</b>
<b>Human</b>	<b>Community Legal Aid Society, Inc.</b>	<b>\$1,000.00</b>
<b>Service</b>	<b>Contact Delaware</b>	<b>\$1,000.00</b>
<b>Grants</b>	<b>Dagsboro Church of God</b>	<b>\$1,000.00</b>
<b>(continued)</b>	<b>Delaware Agricultural Museum and Village</b>	<b>\$1,000.00</b>
	<b>Delaware Association for Children of Alcoholics</b>	<b>\$ 500.00</b>
	<b>Delaware Community Reinvestment Action Council, Inc.</b>	<b>\$ 500.00</b>
	<b>Delaware Crime Stoppers</b>	<b>\$ 500.00</b>
	<b>Delaware Ecumenical Council on Children &amp; Families</b>	<b>\$ 500.00</b>
	<b>Delaware Guidance Services</b>	<b>\$2,000.00</b>
	<b>Delaware Hospice</b>	<b>\$2,000.00</b>
	<b>Delaware Housing Coalition</b>	<b>\$2,000.00</b>
	<b>Delaware Nature Society</b>	<b>\$1,000.00</b>
	<b>Delaware Police Chiefs' Council</b>	<b>\$2,500.00</b>
	<b>Delaware Senior Olympics</b>	<b>\$ 500.00</b>
	<b>Delaware Society for the Prevention of Cruelty to Animals</b>	<b>\$1,000.00</b>
	<b>Delaware State Police Museum</b>	<b>\$ 500.00</b>
	<b>Delmarva Clergy United in Social Action, Inc.</b>	<b>\$1,000.00</b>
	<b>Dickenson Chapel – African Methodist Episcopal Church</b>	<b>\$1,000.00</b>
	<b>Easter Seal Rehabilitation Center</b>	<b>\$1,000.00</b>
	<b>El Centro Cultural, Inc.</b>	<b>\$1,000.00</b>

<b>Human Service Grants (continued)</b>	<b>Everlasting Hope Ministries</b>	<b>\$1,000.00</b>
	<b>Families in Crisis</b>	<b>\$1,000.00</b>
	<b>Food Bank of Delaware</b>	<b>\$ 500.00</b>
	<b>Good Samaritan Aid Organization</b>	<b>\$1,000.00</b>
	<b>Greater Milford Boys &amp; Girls Club</b>	<b>\$1,500.00</b>
	<b>Harvest Ministries, Inc.</b>	<b>\$ 500.00</b>
	<b>The Home of the Brave Foundation, Inc.</b>	<b>\$1,000.00</b>
	<b>Human Relations Commission</b>	<b>\$2,000.00</b>
	<b>Interfaith Mission of Sussex County, Inc.</b>	<b>\$ 500.00</b>
	<b>Kent-Sussex Industries, Inc.</b>	<b>\$1,000.00</b>
	<b>Kin Folk</b>	<b>\$1,000.00</b>
	<b>Kiwanis Foundation of Rehoboth Beach, DE, Inc.</b>	<b>\$1,000.00</b>
	<b>La Esperanza</b>	<b>\$1,500.00</b>
	<b>La Red Health Center</b>	<b>\$ 500.00</b>
	<b>Laurel Community Foundation</b>	<b>\$1,000.00</b>
	<b>Laurel Lions Club</b>	<b>\$1,000.00</b>
	<b>Lewes Historical Society</b>	<b>\$1,000.00</b>
	<b>Meals on Wheels of Lewes &amp; Rehoboth, Inc.</b>	<b>\$6,000.00</b>
	<b>Milton Historical Society</b>	<b>\$1,000.00</b>
	<b>Mt. Zion Church</b>	<b>\$ 500.00</b>
	<b>National Multiple Sclerosis Society</b>	<b>\$1,000.00</b>
	<b>New Coverdale Outreach Mission</b>	<b>\$1,500.00</b>
	<b>People's Place II, Inc.</b>	<b>\$2,000.00</b>
	<b>Pioneer Club of Sussex County Visually Impaired</b>	<b>\$ 250.00</b>
	<b>Possum Point Players</b>	<b>\$ 500.00</b>

<b>Human Service Grants (continued)</b>	<b>Primeros Pasos, Inc.</b>	<b>\$ 500.00</b>
	<b>Read-Aloud Delaware</b>	<b>\$1,000.00</b>
	<b>Rehoboth Art League, Inc.</b>	<b>\$ 500.00</b>
	<b>Seaford Historical Society, Inc.</b>	<b>\$1,000.00</b>
	<b>Southern Delaware Choral Society</b>	<b>\$ 500.00</b>
	<b>Sussex County Senior Centers</b>	
	<b>A. Bridgeville</b>	<b>\$3,000.00</b>
	<b>B. Cape Henlopen</b>	<b>\$3,000.00</b>
	<b>C. Indian River</b>	<b>\$3,000.00</b>
	<b>D. Laurel</b>	<b>\$3,000.00</b>
	<b>E. Lewes</b>	<b>\$3,000.00</b>
	<b>F. Milford</b>	<b>\$3,000.00</b>
	<b>G. Nanticoke</b>	<b>\$3,000.00</b>
	<b>Sussex Community Crisis Housing Services, Inc.</b>	<b>\$2,000.00</b>
	<b>Sussex County Retired Senior Volunteer Program Advisory Committee, Inc.</b>	<b>\$ 750.00</b>
	<b>Sussex Pregnancy Care Center</b>	<b>\$1,000.00</b>
	<b>United Cerebral Palsy of Delaware, Inc.</b>	<b>\$1,000.00</b>
	<b>United Way of Delaware</b>	<b>\$2,000.00</b>
	<b>The Way Home Program</b>	<b>\$1,000.00</b>
	<b>West Side New Beginnings, Inc.</b>	<b>\$ 500.00</b>
	<b>Wildlife Habitat, Inc.</b>	<b>\$ 500.00</b>
	<b>Sussex Family YMCA</b>	<b>\$1,000.00</b>
	<b>Total</b>	<b><u>\$102,900.00</u></b>

**Mrs. Webb distributed a listing of Human Service Grant requests that are not being recommended for funding.**

<b>M 600 05 Approve Human Service Grants, as Amended</b>	<b>Mr. Phillips requested that the list of recommended Human Service Grants be amended to include the allocation of \$1,000.00 to the Dagsboro Church of God for their Thanksgiving Dinner.</b>
	<b>A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to approve the Human Service Grants for Fiscal Year 2006, as amended.</b>



**Motion Adopted: 5 Yea.**

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

**Old  
Business/  
Proposed  
Ordinance  
(C/U  
No. 1612)  
Canal  
Place, LLC**

**The County 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 (87 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.6 ACRES, MORE OR LESS” (Conditional Use No. 1612) filed on behalf of Canal Place, LLC.**

**The Planning and Zoning Commission held a Public Hearing on this application on June 9, 2005; on July 14, 2005 the Commission recommended that the application be approved with the following conditions.**

- 1. The maximum number of residential units shall not exceed 42.**
- 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. The development shall be served as part of the Sussex County Cedar Neck Sewer District.**
- 4. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by application regulations.**
- 5. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.**
- 6. The site plan of the development shall be subject to site plan review and approval by the Planning and Zoning Commission.**
- 7. The interior street design shall be in accordance with or exceed Sussex County street design requirements with curb and guttering. Street lighting shall also be installed as stated in the record.**
- 8. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**
- 9. Road naming and addressing shall be subject to the approval of the**

**County Mapping and Addressing Department.**

**10. A 50-foot buffer shall be provided from the State wetlands line as shown on the site plan as it corresponds to the delineation from White's Creek.**

**11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur during the hours of 8:00 a.m. to 5:00 p.m.**

**12. Access to the boat ramp/launch area shall be available at all times to first responders, fire and EMS crews and vehicles in the event of marine emergencies in the White's Creek area.**

**Old  
Business/  
Proposed  
Ordinance  
(C/U  
No. 1612)  
Canal  
Place, LLC  
(continued)**

**The County Council held a Public Hearing on this application on June 28, 2005 at which time they deferred action.**

**The Council discussed the conditions proposed by the Commission. Mr. Stickels recommended that Condition No. 9, as recommended by the Planning and Zoning Commission, be amended as follows: "Road and community naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.**

**Mr. Dukes referred to the number of units recommended by the Commission (42). He noted that 87 sewer connections and 87 boat access areas currently exist on the site and that the applicant had to buy out the 87 leases. Mr. Dukes stated that, since the sewer connections are already there, he doesn't understand why the number of units are being recommended for reduction.**

**M 601 05  
Amend  
Condition  
No. 1  
(C/U  
No. 1612)**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend Condition No. 1, as recommended by the Planning and Zoning Commission, as follows: "The maximum number of residential units shall not exceed 87."**

**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 602 05  
Adopt  
Ordinance  
No. 1805  
(C/U  
No. 1612)**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1805 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (87 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 14.6 ACRES, MORE OR LESS" (Conditional Use No. 1612) filed on behalf of Canal Place, LLC., with the following conditions:**

**M 602 05  
Adopt  
Ordinance  
No. 1804  
(C/U  
No. 1612)  
(continued)**

- 1. The maximum number of residential units shall not exceed 87.**
- 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. The development shall be served as part of the Sussex County Cedar Neck Sewer District.**
- 4. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by application regulations.**
- 5. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.**
- 6. The site plan of the development shall be subject to site plan review and approval by the Planning and Zoning Commission.**
- 7. The interior street design shall be in accordance with or exceed Sussex County street design requirements with curb and guttering. Street lighting shall also be installed as stated in the record.**
- 8. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**
- 9. Road and community naming and addressing shall be subject to the approval of the County Mapping and Addressing Department.**
- 10. A 50-foot buffer shall be provided from the State wetlands line as shown on the site plan as it corresponds to the delineation from White's Creek.**
- 11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur during the hours of 8:00 a.m. to 5:00 p.m.**
- 12. Access to the boat ramp/launch area shall be available at all times to first responders, fire and EMS crews and vehicles in the event of marine emergencies in the White's Creek area.**

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

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



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

**Introduction of Proposed Ordinance**  
**Introduction of Proposed Ordinance (continued)**

**Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR THE GRINDING OF VEGETATIVE MATERIAL AND MULCH STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 20.88 ACRES, MORE OR LESS” (Conditional Use No. 1656) filed on behalf of M. L. Joseph Construction. The Proposed Ordinance will be advertised for Public Hearing.**

**Introduction of Proposed Ordinance**

**Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE MARKET SALES FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 32.924 ACRES, MORE OR LESS” (Conditional Use No 1657) filed on behalf of Johnson’s Country Market. The Proposed Ordinance will be advertised for Public Hearing.**

**Introduction of Proposed Ordinance**

**Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTOMOTIVE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.54 ACRES, MORE OR LESS” (Conditional Use No. 1658) filed on behalf of Bart and Brenda Donaway. The Proposed Ordinance will be advertised for Public Hearing.**

**Introduction of Proposed Ordinance**

**Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL WINDOW TREATMENT BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.709 ACRE, MORE OR LESS” (Conditional Use No. 1659) filed on behalf of Robin R. May. The Proposed Ordinance will be advertised for Public Hearing.**

**Introduction of Proposed Ordinance**

**Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5,000 SQUARE FEET,**

**MORE OR LESS” (Change of Zone No. 1594) filed on behalf of Richard J. Poppleton. The Proposed Ordinance will be advertised for Public Hearing.**

**Water  
Utilities**

**Mr. Dukes announced that he received a phone call regarding a letter requesting permission for Artesian Water Company to establish a franchise in the Sycamore area. Also, another water company is sending out a form asking for permission to create a franchise in the Williamsville area. Mr. Rogers and Mr. Griffin mentioned that they have received similar notices from Tidewater Utilities. Mr. Griffin advised that State Law allows them to make these solicitations.**

**Water  
Utilities  
(continued)**

**Dan Kramer commented on water franchise procedures.**

**Comments**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 9:50 p.m. Motion Adopted by Voice Vote.**

**M 608 05  
Adjourn**

**Respectfully submitted,**

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