



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 7, 2004

Call to Order The regular meeting of the Sussex County Council was held Tuesday, December 7, 2004, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Alix Robinson	Assistant County Attorney

M 699 04 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the
Amend and Agenda by deleting the items entitled “Old Business: Conditional Use No.
Approve 1555 Paul Robino and Robino-Sanibel Village, L.L.C. and Old Business:
Agenda Change of Zone No. 1548 – Gary L. Thomas and Shirley M. Thomas” 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 700 04 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the
Approve minutes of November 16, 2004.
Minutes

Motion Adopted: 5 Yea.

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

Corre- Ms. Robinson read the following correspondence:
spondence

JOHN S. RILEY, EASTER SEALS, NEW CASTLE, DELAWARE.

RE: Letter thanking Councilman Dukes for attending the Annual Recognition Dinner. (Mr. Dukes noted that Mr. Jones and Mr. Stickels also attended the dinner.)

RICHARD EAKLE AND EDWARD LEWANDOWSKI, DELAWARE CENTER FOR THE INLAND BAYS, LEWES, DELAWARE.

RE: Letter congratulating Dale Dukes on his reelection tot he Sussex County Council.

(continued)

**Christmas
Carols**

The County Council welcomed children from Small Wonder Ones Child Care. The children entertained the Council by singing Christmas carols.

**Adminis-
trator's
Report**

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

1. Milton Library

The Milton Library will be closed from Friday, December 3, through Friday, December 10, 2004, to facilitate moving the library collection to a new section of the library.

The Ribbon Cutting and Historical Marker Dedication will take place on Saturday, December 11, 2004, starting at 10:00 a.m. The ceremony will celebrate the renovation and expansion of the Milton Library. Included with this report is an agenda of the daylong festivities.

2. Caroling on The Circle

On Monday, December 6, 2004, the 22nd Annual Caroling on The Circle took place. Over 21,000 items of food were contributed for the food pantries in Sussex County. I would like to thank the Caroling on The Circle Committee for their efforts. The Committee includes Diana Pettyjohn, Ray Webb, Dale McDowell, and Monica Viana, President of El Centro Cultural. Once again Kevin Short and Ed Shockley provided entertainment for the enjoyment of over 800 people who attended this year.

The Delaware Manufactured Homeowners Association and First State Manufactured Housing Association raised 8,000 items of food. Other contributions included 2,857 items from North Georgetown Elementary, 1,301 items from Cape Henlopen Beacon Middle School, and 1,200 items from Georgetown Elementary.

**Pension
Committee
Report**

Mr. Baker reported on the Pension Committee meeting, which was held on Tuesday, November 30th. At that meeting, the Committee made the following recommendations for the Council.

The Committee first reviewed the Investment Report: as of September 30, 2004 for the calendar year, returns on the pension fund were 1.6 percent for

Wilmington Trust; 2.13 percent for Fidelity Investments; and 5.00 percent for the State of Delaware Local Government Retirement Investment Pool. The total return for the pension fund was 3.5 percent, which exceeds comparable indices which were 2.70 percent. The value of the fund as of September 30, 2004 is \$24.4 million which includes \$8.2 million with Wilmington Trust, \$4.1 million with Fidelity Investments, and \$12.1 million with the State of Delaware. There is also \$1.7 million is in the Employees Benefit Fund Account.

Pension Committee Report (continued) Mr. Baker reviewed an analysis of Pension Fund returns by manager for January 1, 1997 through September 30, 2004: 6.04 percent by Wilmington Trust, 7.77 percent by Fidelity Investments, and 8.56 percent by the State of Delaware. He noted that the County's goal is 8 percent.

Mr. Baker reported that the Committee reviewed this information and discussed investing \$2,461,524 for the Fiscal 2005 Budget pension contribution and \$886,561 for the Fiscal 2005 Budget Pension Benefit Fund (group hospital benefits for pensioners). The Committee recommended investing both contributions in the State of Delaware Local Retirement Investment Pool, based on the high level of returns this year and their good track record since 1997 when the County began investing with them.

M 701 04 Approve Fiscal 2005 Pension Contribution A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Fiscal 2005 Budget Pension Contribution Amount for approximately \$2,461,524 be invested with the State of Delaware Local Retirement Investment Pool.

Motion Adopted: 5 Yea.

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

M 702 04 Approve Fiscal 2005 Pension Benefit Fund Contribution A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Fiscal 2005 Budget Pension Fund Contribution amount of approximately \$886,561 be invested with the State of Delaware Local Retirement Investment Pool.

Motion Adopted: 5 Yea.

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

Pension Committee Report (continued) Mr. Baker reported that the Pension Committee also discussed a Proposed Pension Benefit Fund Ordinance. The County Auditors have requested that a Trust Fund specifically for the Pension Benefit Fund contributions be established. Mr. Griffin is now working on a Proposed Ordinance to expense these contributions. The Committee voted to recommend that the Proposed Ordinance be developed. (No action was necessary.)

Mr. Baker reported that the Pension Committee also reviewed suggested

changes to pension benefits, which were made by Mr. Baker and Mr. Cordrey, Personnel Director, as follows:

Pension
Committee
Report
(continued)

- Currently, pensioner spouses over 65 do not receive a prescription card, although they are reimbursed at 80 percent for prescription costs. It is proposed that pension spouses covered by the County group hospital plan would receive prescription cards; this would go into effect within approximately 60 days.
- Currently, pensioner spouses over 65 are not covered for vision and dental. It is proposed that eligible spouses of pensioners will be covered for vision and dental with the Fiscal 2006 Budget.
- Currently, pensioner spouses are not covered for Group Hospital if they were not included with County Group Hospital coverage when the pensioner applied for benefits. It is proposed to amend the Group Hospital plan documents to allow coverage for pensioner spouses if they: (1) apply for coverage when the pensioner applies for benefits, or (2) the spouse applies for coverage if he or she loses their existing coverage.

M 703 04
Approve
Pension
Benefit
Policy

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the following pensioner spouse benefit changes be made:

- Eligible pension spouses over 65 receive a prescription card effective in approximately 60 days;
- Eligible pensioner spouses over 65 receive vision and dental benefits beginning July 1, 2005; and
- Pensioner spouses be allowed to apply for Group Hospital benefits or when the spouse loses existing coverage, effective May 1, 2005.

Motion Adopted: 5 Yea.

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

Mr. Cole questioned pensioner benefits in the event of death, remarriage, etc. It was noted that the Pension Committee would review these issues.

Pension
Committee
Report
(continued)

Mr. Baker reported that the Pension Committee also discussed pension terms and requirements, especially considering changes being considered by Kent County and the State of Delaware. Kent County employees are vested in 5 years and they do allow retirement at age 55 with 25 years of service and they do allow for retirement at any age with 30 years of service. They recently increased their multiplier from 1.6 percent to 2 percent. The State of Delaware Pension Plan multiplier is 1.85 percent and 2 percent depending on years of service; they vest in 5 years; they do have an option for survivor benefits (75 percent of pension instead of 50 percent with a 3 percent reduction in the pension amount); the employee pays 3 percent of their earnings in excess of \$6,000 per year towards the pension plan; they

have an early retirement plan with a penalty; and they are considering allowing retirement after 25 years of service at any age. Mr. Baker reported that the consensus of the Pension Committee was to ask the County's Actuary to report on the cost of the different options.

**Paramedic
Station
Lease
Renewal
Lease
(continued)**

Mr. Luedtke, Director of EMS, reviewed a Lease Agreement between Lincoln Community Hall, Inc. and Sussex County for the lease a portion of the building for a Paramedic Station. Mr. Luedtke noted that this is a lease renewal. The term of the lease commences on January 1, 2005 and continues for a period of five years. The rental amount will be \$800.00 monthly with a 3 percent annual increase each year thereafter.

**M 704 04
Approve
Paramedic
Lease
Agreement**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council approves a Lease Agreement between Lincoln Community Hall, Inc. and Sussex County, Delaware for the use of a portion of the building owned by them by Sussex County EMS as Paramedic Station 101, contingent upon the approval of the County Attorney.

Motion Adopted: 4 Yea, 1 Abstention.

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

(Mr. Cole was out of the room during the discussion.)

**Engineering
Services
Agreement/
Contract
Amendment
with
CABE
Associates**

Mr. Izzo, County Engineer, presented a Proposed Amendment to Engineering Services Agreement with CABE Associates. He noted that CABE Associates has been the County's consulting engineer for the Oak Orchard Project.

Mr. Izzo reviewed the status of the Oak Orchard Project. He reported that the project has been divided into six separate contracts:

- Contract A was for the Force Main Construction to the Treatment Plant; the contract was completed last year by Hopkins Construction.
- Contract B is for the Riverdale Gravity Sewer Construction; the Contract has been awarded to Bearing Construction and should be complete in November 2005.
- Contract C is for Pump Stations; the Contract has been awarded to George and Lynch and should be complete in July 2005.
- Contract D is for the Oak Orchard Gravity Sewer Construction; the Contract has been awarded to Metra Industries and a Notice to Proceed has been issued; this Contract should be complete in January 2005.
- Contract E is for Frame's Point Phase I Sewer Construction; the Contract will be bid this month and should be complete by April 2006.
- Contract F Frame's Point Phase II Sewer Construction; information will be announced later.

Mr. Izzo stated that the County has a Design Agreement with CABE Associates and the County is proposing to increase the design services in the amount of \$40,482.00; it was originally approximately \$390,000.00. The proposal is a result of some of the redesigns that have been done over the past year to reduce costs, including dividing the project into more contracts.

M 705 04
Approve
Contract
Amendment
with CABE
Associates

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the County Engineering Department, that Amendment No. 3 with CABE Associates of Dover, Delaware be approved to accommodate increased design and construction administration costs for the Oak Orchard 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

Proposed
Ordinance
Relating to
Open Space

The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY TO REQUIRE THE PROVISION OF OPEN SPACE IN NEW DEVELOPMENTS”.

The Planning and Zoning Commission recommended that the Proposed Ordinance be approved, as circulated.

The County Council, in their discussions, requested that alternative versions of the Proposed Ordinance be prepared by the County Attorney for consideration. The alternative versions were previously distributed to the Council for review.

It was noted that the County Attorney advised that if the Council decides to go with one of the alternative versions, the Proposed Ordinance would have to be readvertised and Public Hearings held.

M 706 04
Adopt
Ordinance
No. 1734

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1734 entitled “AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY TO REQUIRE THE PROVISION OF OPEN SPACE IN NEW DEVELOPMENTS” (original version).

Motion Adopted: 5 Yea.

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

**Request for
Additional
Information**

The County Council asked that the County Attorney draft a memo summarizing the differences between versions 1 and 2 of the ordinance for the purpose of considering amendments to the ordinance in the future.

C/U

No. 1564

The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR METAL FABRICATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 1.78 ACRES, MORE OR LESS” (Conditional Use No. 1564) filed on behalf of Beverly Trice.

C/U

No. 1564

(continued)

The Planning and Zoning Commission recommended that the application be denied for the lack of a record since no one appeared on behalf of the application.

It was noted that the applicant was present at the Public Hearing before the County Council.

M 707 04

Adopt

Ordinance

No. 1735

(C/U

No. 1564)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1735 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR METAL FABRICATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 1.78 ACRES, MORE OR LESS” (Conditional Use No. 1564) filed on behalf of Beverly Trice, with the following conditions:

1. The shop shall be used for storage for the metal fabrication, welding, pipe-fitting business.
2. There shall be no signage on the premises since it was not requested by the tenant (Holt’s Metal Works).
3. There shall be no outside storage of materials.
4. Dumpster location shall be screened from view.
5. The site plan shall be subject to the review and approval of the Planning and Zoning Commission upon receipt of all agency approvals.

Motion Adopted: 5 Yea.

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

C/Z

No. 1549

The County Council discussed 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 INDIAN RIVER

HUNDRED, SUSSEX COUNTY, CONTAINING 0.78 ACRES, MORE OR LESS” (Change of Zone No. 1549) filed on behalf of DMR Properties, L.L.C.

The Planning and Zoning Commission recommended that the application be approved.

M 708 04

**M 708 04
Adopt
Ordinance
No. 1736
(C/Z
No. 1549)
(continued)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1736 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.78 ACRES, MORE OR LESS” (Change of Zone No. 1549) filed on behalf of DMR Properties, L.L.C.

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**

Requests

Mr. Stickels presented requests for funding for the Council’s consideration.

**M 709 04
Community
Investment
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$2,250.00 from Mr. Jones’ Community Investment Grant Fund to The Way Home Program.

Motion Adopted: 5 Yea.

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

**M 710 04
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$250.00 from Mr. Dukes’ Councilmanic Account to the Dr. Martin Luther King, Jr. Committee for the Community Day of Celebration.

Motion Adopted: 5 Yea.

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

**M 711 04
Youth
Activity
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500.00 from Mr. Phillips’ Youth Activity Account to the Millsboro Hut, Inc. to support scouting programs in Millsboro.

Motion Adopted: 5 Yea.

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

M 712 04

**Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500.00 from Mr. Phillips' Councilmanic Account to the Selbyville Lions Club for their Eye Examination and Eye Glass Program.

M 712 04

(continued)

Motion Adopted: 5 Yea.

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

M 713 04

**Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Jones' and Mr. Dukes' Councilmanic Accounts) to the Coverdale Crossroads Community Council, Inc. for holiday celebrations for the children and families of the Coverdale community.

Motion Adopted: 5 Yea.

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

**Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 38,702 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1575) filed on behalf of Edward J. Chiasson. The Proposed Ordinance will be advertised for Public Hearing.

**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 THE SALES OF PRODUCE, NURSERY STOCK, FLOWERS, AND SEAFOOD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 11.7458 ACRES, MORE OR LESS" (Conditional Use No. 1669) filed on behalf of Robert Rutkowski, Jr. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE AND GARDEN CENTER TO BE LOCATED ON A CERTAIN PARCEL OF

LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0879 ACRES, MORE OR LESS” (Conditional Use No. 1610) filed on behalf of Michael P. and Sharon L. Cordrey. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR REPAIRS AND MANUFACTURING OF SHIPPING CONTAINERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.2 ACRES, MORE OR LESS” (Conditional Use No. 1611) filed on behalf of Greenwood Pallet Co., Inc. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance
(continued)**

**Proposed
Ordinance**

Mr. Jones introduced 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 Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING AND SITE WORK BUSINESS HEADQUARTERS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 25.16 ACRES, MORE OR LESS” (Conditional Use No. 1613) filed on behalf of Fresh Cut. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WELDING AND FABRICATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 41,915 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1614) filed on behalf of Beau Marr. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLES I AND XXV RELATING TO FLOOD PRONE DISTRICTS”. The Proposed Ordinance will be advertised for Public Hearing.

Public

Comments **Mr. Kramer told the Council that on Thursday, December 16th, DNREC is going to have a hearing at 7:00 p.m.**

Mr. Lit Dryden thanked the Council for their contribution to The Way Home Program.

M 714 04

Recess

At 11:28 a.m., a Motion was made by Mr. Cole, seconded by Mr. Jones, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

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

Public

Hearing

(C/U

No. 1574)

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 MUD BOG RACING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 17.94 ACRES, MORE OR LESS” (Conditional Use No. 1574) filed on behalf of Ray A. Ellis.

The Planning and Zoning Commission held a Public Hearing on this application on November 18, 2004 at which time they recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated November 18, 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 Ray Ellis was present and stated that he farms the family farm; that the mud bog is a hole full of mud where his two sons started racing; that the intent of the events is for family fun; that the activity is not operated as a business; that the 17.94 acres is a portion of a 50 acre parcel; that there are no close neighbors; that they would like to be able to have 10 or 11 events per year; that they would like 2 or 3 truck pulls per year; that the events would run from 1:00 p.m. to 6:00 p.m.; that they have had events for charitable fund raisers and church groups; and that he has no opposition to the conditions recommended by the Commission.

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

M 715 04

Adopt

Ordinance

No. 1737

(C/U

No. 1574)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1737 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MUD BOG RACING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN

GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 17.94 ACRES, MORE OR LESS” (Conditional Use No. 1574) filed on behalf of Ray A. Ellis, with the following conditions:

**M 715 04
(continued)**

- 1. There shall only be 12 mud bog events during any calendar year and only 4 truck pull events during any calendar year.**
- 2. There shall not be any night-time mud bog events or truck pull events.**
- 3. The site plan, showing the mud bog areas, truck pull areas, parking, spectator areas, concession areas, etc. shall be subject to review and approval by the Planning and Zoning Commission.**
- 4. Event hours shall be limited to 12:00 noon through 7:00 p.m.**

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1558)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Change of Zone No. 1558) filed on behalf of Rehoboth Canal Ventures, L.L.C.

The Planning and Zoning Commission held a Public Hearing on this application on November 18, 2004 at which time they deferred action.

(See the minutes of the Planning and Zoning Commission dated November 18, 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 was admitted as part of the County Council’s record.

The Council found that Steven Ellis, Attorney, and Jessica Nichols, Professional Engineer with Meridian Engineering, were present representing the applicant. They stated that this application involves a project known as Blue Point Villas, Phase II; that the gross acreage of the parcel is 4.72 acres; that the site is currently in a deteriorated condition; that the site was formerly used by the City of Rehoboth as a storage site; that the project is compatible with existing uses; that the application has been revised and is for 15 duplexes with a total of 30 dwelling units (6.36 dwelling units per acre); that a recreational facility has been added to the plan and includes a swimming pool and pool house; and that 60% of the site will be green open space; that public sewer will be provided by the County;

that there is a capacity of 17 EDUs for sewer based on existing zoning; and that upgrades will be performed to the sewer system which will allow for a larger number of units.

Mr. Cole commented that the plan submitted is a conceptual plan; asked what were the assurances that the proposed plan will actually be followed; questioned why the applicant did not apply for a conditional use; and noted that HR zoning is not compatible with the area.

**Public
Hearing
(continued)**

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

It was noted that the Planning and Zoning Commission has not made a decision on this application.

**M 716 04
Defer
Action on
C/Z
No. 1558**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on Change of Zone No. 1558, an application of Rehoboth Can Ventures, L.L.C.

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1559)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 16.49 ACRES, MORE OR LESS” (Change of Zone No. 1559) filed on behalf of Greg Ivanoff.

The Planning and Zoning Commission held a Public Hearing on this application on November 18, 2004 at which time they deferred action.

(See the minutes of the Planning and Zoning Commission dated November 18, 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 was admitted as part of the County Council’s record.

Mr. Lank reported that revised plans were submitted to the Commission depicting 49 single family lots rather than the 55 lots originally submitted.

The Council found that Greg Ivanoff was present with James Fuqua,

Public
Hearing
(C/Z
No. 1559)

Attorney, and Gary Cuppels of ECI. They stated that the property contains 16.5 acres; that at the request of DelDOT, the development area will be reduced to 13.9 acres; that the proposed Cedar Grove Estates development will contain 49 single family lots; that the minimum lot size is 7,500 square feet; that in the process of review with DelDOT it was agreed upon that there was a need to realign the intersection of Postal Lane, Plantation Road and Cedar Grove Road; that capacity is available for sewer; that a lot has been created in the new plan for a recreation area; that another area has been created in the revised plan for open space; that the area is an extensively developed and developing residential area; that in response to concerns expressed by the public, a disclosure will be made that kennels exist nearby; and that a 6 foot fence will be provided along the property line adjacent to the kennels (Dottie Quillen's property line).

Mr. Fuqua submitted an Exhibit Booklet and proposed conditions and findings of fact.

Mr. Lank read a letter from Barbara McGowan of Sandy Brae, dated December 3, 2004. Ms. McGowan expresses several concerns she has about the project.

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

M 717 04
Defer
Action on
C/Z
No. 1559

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to defer action on Change of Zone No. 1559, an application of Greg Ivanoff.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/Z
No. 1565)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL AND MR MEDIUM DENSITY RESIDENTIAL TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.60 ACRES, MORE OR LESS" (Change of Zone No. 1565) filed on behalf of Allen Family Foods, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on November 18, 2004 at which time they deferred action.

(See the minutes of the Planning and Zoning Commission dated November 18, 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 was admitted as part of the County Council's record.

The Council found that the applicant submitted an Exhibit Booklet for the record.

Public
Hearing
(C/Z
No. 1565)

The Council found that Mark Dunkle, Attorney, was present with several representatives from Allen Family Foods. Mr. Dunkle stated that Allen Family Foods is a chicken processing business; that the parcels subject to this rezoning add up to approximately 1 acre; that the site contains the entrance to the Allen Family Foods facility, a mobile home and an old house; that they propose to use the site for a parking lot; that they propose to plant landscaping along the rear of all neighboring properties; that they propose to landscape the area around the parking lot; that lighting will be restricted to the parking lot area; that the Harbeson plant has received a \$20 million investment from Allen Family Foods to expand and renovate the plant; that a 44,000 square foot building addition was constructed; that employment at the plant has increased from 770 to 1,000 employees; that they plan to add 200 additional employees to this facility; that a chicken processing facility has been at the Harbeson site for fifty years; that the parking lot is needed as a result of the investment in the facility; that the entrance needs to have a rural and professional appearance since customers are brought into the facility; that it will be a more professional landscape than what is there today; that the plant will be better screened than it is today; that Allen's has met with the neighbors on several occasions to discuss concerns and that some changes were made as a result of those meetings; that concerns were addressed; and that the improvements will make them better neighbors.

Public comments were heard.

Mr. Michael Scuse, Secretary of the Department of Agriculture, spoke in support of the application. He stated that the poultry industry is very important to Sussex County and the State; that the use provides employment to the State and the County; that he commends the Allen Family for modernizing the plant; that the parking lot will be an asset to the plant and to community; and he asked the Council to give favorable consideration to the matter.

Mr. David Weidman, Attorney, spoke on behalf of the Harbeson Improvement Association, and stated that he was retained by the Association in opposition to the application. He stated that there should be a limit on the intrusion this plant has on their lives; that denial of the parking lot will have no impact on the plant; that there are many other options that are less intrusive; and that the residents have to deal with adverse conditions such as noise, odor, etc.;

Mr. Bob Lawson, President of the Harbeson Improvement Association, stated that Allen's has 61 acres of HI zoned land now; that they are not

utilizing all of the HI zoned land they have now; that they don't need this additional land rezoned; that a need has not been established other than parking; that they are not utilizing the parking that they currently have; that Parcel 83 should be left vacant; that Parcel 84 could be applied for as a conditional use for a parking lot; that the Council has no control over the land if it is rezoned to HR; that HI zoning should not be permitted so close to the road; and that they want the Council to have control over the front lot.

**Public
Hearing
(C/Z
No. 1565)**

Mada Graves stated that she lives across the railroad from the site; that Allen's left her home site out of their pictures; that she does not want to look out at a parking lot; that the lighting will be an intrusions; that she wants the front lot as a buffer to the plant; and that she is opposed to the application.

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

**M 718 04
Defer
Action on
C/Z
No. 1565**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Change of Zone No. 1565 filed on behalf of Allen Family Foods, Inc.

Motion Adopted: 5 Yea.

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

**M 719 04
Adjourn**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips to adjourn.
Motion Adopted by Voice Vote.

Respectfully submitted,

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