

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-DECEMBER 13, 2005

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

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

M 652 05 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the
Approve Agenda by deleting “Approval of Minutes, Public Hearing: Assessment Rolls
Agenda for the Bayview Estates and Sea Country Estates Sanitary Sewer Districts, and
Conditional Use No. 1640, Cain Construction – Robert T. Cain, II” (application
was withdrawn October 27, 2005), and to approve the Agenda, as amended.

Motion Adopted: 4 Yea, 1 Not Voting.

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

Corre- Mr. Griffin read the following correspondence:
spondence

**MARK SKIDMORE, PRESIDENT, BOARD OF DIRECTORS, SUSSEX
CENTRAL POP WARNER, GEORGETOWN, DELAWARE.**

RE: Letter in appreciation of donation.

**ANNE YARBROUGH, EXECUTIVE DIRECTOR, MILTON HISTORICAL
SOCIETY, MILTON, DELAWARE.**

RE: Letter in appreciation of Human Service Grant.

**DONALD DUROST, EXECUTIVE DIRECTOR, AND JANE CARTER,
PROGRAM DIRECTOR, LEWES SENIOR CITIZENS CENTER, LEWES,
DELAWARE.**

RE: Letter in appreciation of Human Service Grant.

Proposed Mr. Phillips reviewed suggested changes to the Proposed Ordinance entitled
Ordinance “AN ORDINANCE TO AMEND CHAPTER 115 SECTION 25 OF THE
Relating CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF
to AR-1 DENSITY IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN
Districts GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES OR

Proposed Ordinance Relating to AR-1 Districts (continued)

CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE PRESERVATION OF AGRICULTURAL LANDS IN SUSSEX COUNTY.” This amendment allows an increase in density within planned growth areas and provides for specific circumstances or conditions for obtaining such increase in density. The amendment also encourages the preservation of open space preservation/active and passive recreation areas by trading additional residential density for the proffering of funds for open space acquisition to the Sussex County Land Trust.

Mr. Phillips stated that the Proposed Ordinance was discussed at the December 6, 2005, Council meeting and, as a result, has been revised to delete agricultural references; to provide that the Sussex County Council shall have final approval of any purchases that are made with funds that are generated from the program, said approval by Council to be by a four-fifths majority vote; and that contribution levels were changed to reflect a greater opportunity for preservation of open space and recreational areas in the County to a level of \$15,000 per development unit in and around the town centers and developing areas, and a level of \$20,000 per unit in the environmentally sensitive developing area.

Introduction of Proposed Ordinance Relating to AR-1 Districts

Mr. Phillips introduced the Proposed Ordinance entitled “**AN ORDINANCE TO AMEND CHAPTER 115 SECTION 25 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF DENSITY IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE PRESERVATION OF OPEN SPACE IN SUSSEX COUNTY.”** The Proposed Ordinance will be advertised for Public Hearing.

Town of Ellendale Zoning Regulations

Mr. Stickels advised Council that a letter dated November 17, 2005, has been received from the Town of Ellendale stating that the Town adopted their own Zoning Ordinance and Subdivision and Land Development Project Regulations on November 1, 2005. The ordinances went into effect immediately upon adoption, and the Town Council has also appointed a Planning Commission and Board of Adjustment. Therefore, the Town is officially requesting release from the jurisdiction of the Sussex County Zoning Ordinance and Subdivision Regulations.

M 653 05 Approve Release of Zoning/ Ellendale

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the release of the Town of Ellendale from the jurisdiction of the Sussex County Zoning Ordinance and Subdivision Regulations as of November 1, 2005.

Motion Adopted: 5 Yea.

**M 653 05
(continued)**

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

**Request
for Code
Enforce-
ment
Assistance/
Town of
Ellendale**

Mr. Stickels informed Council that although the Town of Ellendale has adopted their own Zoning Ordinance and Land Development Project Regulations, they are still in the training stage and not functioning at this time. As a result, the Town is requesting the assistance of the Sussex County Code Enforcement Officer until they have their own Code Enforcement Officer in place.

It was the consensus of Council that as of this date, December 13, 2005, the County has no authority to officially enforce regulations within the Town of Ellendale and that technical assistance only may be provided by Planning and Zoning staff upon request.

**M 654 05
Approve
Code
Enforce-
ment
Technical
Assistance
to Town
of Ellendale**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Council approves providing technical assistance, upon request, to the Town of Ellendale in the area of code enforcement of Zoning Ordinance and Land Development Project Regulations, not to exceed 180 days.

Motion Adopted: 5 Yea.

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

**Wastewater
Agreement**

Mr. Stickels presented a wastewater agreement for Little Meadows, Phase III, located in the Blades Sanitary Sewer District.

**M 655 05
Execute
Wastewater
Agreement/
Little
Meadows,
Phase III**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 416, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Little Meadows, Inc., for wastewater facilities to be constructed in Little Meadows, Phase III, located in the Blades 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

**Admin.
Report**

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

**Admin.
Report
(continued)**

1. Airport Meeting

The next regularly scheduled Sussex County Airport Committee meeting will be held on Wednesday, January 11, 2006, at the Sussex County West Administrative Complex, North DuPont Highway, Georgetown, Delaware, starting at 6:00 p.m. The media as well as the general public is welcome to attend.

2. Holiday Schedule

Sussex County offices will be closed on Friday, December 23, and Monday, December 26, 2005, for the Christmas holiday. Offices will reopen at 8:30 a.m. on Tuesday, December 27, 2005. There will not be a Council meeting the week of December 19 or the week of December 26, 2005.

Offices will also be closed on Monday, January 2, 2006, for the New Year's Day holiday. Offices will reopen on Tuesday, January 3, 2006, at 8:30 a.m. The next regularly scheduled County Council meeting will be held at 10:00 a.m. on Tuesday, January 3, 2006.

**WR&A
Contract
Amend-
ment/
North
Coastal
Planning
Area**

Mr. Izzo, County Engineer, presented Contract Amendment No. 2 to the County's contract with Whitman, Requardt & Associates, LLP, for the North Coastal Planning Area. For Council's information, Mr. Izzo distributed a handout listing the projected flows for the Wolfe Neck Regional Wastewater Facility for the years 2005, 2015, 2025, and an ultimate design option. Mr. Izzo stated that it is expected the capacity limit at the Wolfe Neck Facility will be reached within the next ten years, during which time projected flows are expected to increase from 2.0 million gallons per day to 4.9 million gallons per day. The County currently has a lease with the Delaware Department of Natural Resources and Environmental Control for spray irrigation, and additional sites are being considered at the Wolfe Farm, with a potential application area of 57.24 acres, and the Anderson/Harley-Joseph site, with a potential application area of 129.03 acres. Mr. Izzo noted that spray irrigation on these parcels would require treatment to a higher level to allow for public involvement on the property, such as walking trails, bike paths, etc.

The proposed agreement with Whitman, Requardt & Associates is to initiate a program to do hydrogeologic studies to determine what a realistic spray application rate would be. The contract will take approximately 18 months at a total cost of \$392,568 and will consist of looking at the spray fields at the Wolfe Farm and Anderson/Harley-Joseph site, with actual hydrogeo work on the existing spray fields and a pilot program to be conducted on the rapid infiltration basin system.

**M 656 05
Execute
Contract
Amendment
with
WR&A/
North
Coastal
Planning
Area
(Wolfe Neck
RWWF)**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorize its President to execute Amendment No. 2 to its contract with Whitman, Requardt & Associates, LLP, which references the performance of hydrogeologic work and soil studies at the Wolfe Neck Regional Wastewater Facility.

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
Relating to
Sheriff's
Fees**

A Public Hearing was held on 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". This amendment would raise the Sheriff's fees for certain services, i.e. mileage, levying execution on goods and chattels, services of the Sheriff and/or Deputy, serving documents not originating in the State of Delaware, and sending levy sheets via fax. The amendment revises the fees charged by the County Sheriff to amounts that are currently appropriate based on the amount of work and expenses involved in providing those services.

Sheriff Reed reviewed the proposed increases in fees. Mr. Dukes questioned if the charge of \$35.00 per hour for services performed by a deputy included mileage. Mr. Stickels clarified that mileage is not paid for deputies traveling to the site on the day of the sale.

Mr. Phillips inquired as to how much revenue the increases in fees would generate for the Sheriff's Office. Sheriff Reed and Mr. Baker agreed that it is difficult to estimate because the amount of revenue would depend on the volume of activities taking place. It was requested that Mr. Baker compile figures using the proposed fees, based on the activities of the Sheriff's Office during the past two years, and report back to Council in January.

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

**M 657 05
Defer
Action/
Proposed
Ordinance
Relating to
Sheriff's
Fees**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to defer action on 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" until January 10, 2006, to allow time for the Council to obtain information from the Finance Department regarding the estimated amount of revenue that would be generated for the Sheriff's Office from the proposed increases in fees.

**M 657 05
(continued)**

Motion Adopted: 5 Yea.

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

**Maintenance
Contracts/
Utility
Service
Company**

Ms. Cooper, Project Engineer, discussed maintenance contracts with Utility Service Company, Inc., on three existing water storage tanks owned by Sussex County, two located at the Sussex County Airport and the Dewey Beach Tower site. The contract price for maintenance and repairs (including painting and inspection) for the first three years totals \$501,804.00, with a contract price of \$49,247 per year to perform ongoing maintenance from FY '09 through FY '12.

**M 658 05
Approve
Maintenance
Contracts/
Utility
Service
Company,
Inc.**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves three contracts with Utility Service Company, Inc., of Perry, Georgia, to provide maintenance of and professional services for three existing water storage vessels owned by Sussex County, contingent upon receipt of the final document approval by the County Attorney and County Engineer, and further pending the acquisition of professional engineers liability insurance by Utility Service Company.

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
Relating to
Shared
Parking**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY WHICH DELETES THE EXISTING LANGUAGE AND INSERTS NEW LANGUAGE TO PERMIT THE SHARING OF REQUIRED PARKING SERVING MULTIPLE USES WITHIN THE SAME PROJECT AND UNDER THE SAME OWNERSHIP." This amendment deletes the existing but limited language pertaining to the shared use of off-street parking and replaces it with a more complete set of requirements.

The Planning and Zoning Commission held a Public Hearing on this Ordinance Amendment on November 17, 2005, at which time they recommended that the amendment be approved with the following revisions: Section 115-165 (2) b. should reference "occupants," not "tenants," and Section 115-165 (3) should reference "County" Attorney, not "City" Attorney.

(See the minutes of the Planning and Zoning Commission dated November 17, 2005, for additional information on the Ordinance Amendment,

**Public
Hearing/
Proposed
Ordinance
Relating to
Shared
Parking
(continued)**

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.

Mr. Lank reported that additional correspondence addressed to Mr. Jones was received from Kevin Donnelly, Director, Division of Water Resources, Delaware Department of Natural Resources and Environmental Control, dated December 13, 2005, and Constance P. Holland, Director, Delaware Office of State Planning Coordination, dated December 9, 2005, in support of the Ordinance Amendment.

Information compiled by Mr. Guy, Chief of Public Information, regarding parking requirements in neighboring counties, as well as resort communities, was made available to Council for comparison purposes.

Discussion was held as to whether or not an enclosed garage as part of a multi-family dwelling would be considered a parking space. This determination varies from one jurisdiction to another.

Public comments were heard.

Preston Schell spoke in support of the amendment stating that shared parking makes sense in cases where there is a commercial use that typically requires more parking during the day and a residential use that requires more parking in the evening; that two parking spaces per unit with the ability to share spaces and use overflow parking is a good idea; and that contractors should encourage multiple uses which will result in much less impervious area.

Kevin Burdette stated that the existing shared use program is restricted to school auditoriums, churches, and such; that there are some housekeeping items in the amendment that need to be addressed (which Mr. Burdette proceeded to review and will make available for staff); that a maximum distance of 600 feet to the public entrance is recommended so that shared parking is not a half mile away with regard to large complexes; and that existing regulations in Sussex County require a duplication of parking spaces in instances where there is a business use on the first floor and, for example, an apartment complex on the second floor of a building.

Preston Dyer stated that the amendment will provide sharing where there is a multiple use development, i.e. residential, commercial, or mix thereof, typical live/work situation; that the compatibility of combining a residential use, which is a night loading, with a commercial use, which is a day loading, is such that it is a win/win situation for everyone; that focus needs to be on the use as opposed

**Public
Hearing/
Proposed
Ordinance
Relating to
Shared
Parking
(continued)**

to the number of parking spaces; that if the use should change, the shared parking agreement would have to be reinterpreted; that the agreement could be between any number of people; and that overflow parking is not necessary to be in close proximity to the entrance.

Wendy Baker provided for Mr. Cole a booklet published by the Urban Land Institute regarding shared parking.

Dan Kramer spoke in opposition to the amendment stating that the public should not be required to obtain approval from the County in regard to shared parking agreements.

Mr. Griffin noted that the title of the Ordinance Amendment is inconsistent with the contents due to the fact that the title references parking which serves multiple uses within the same project and under the same ownership, yet the body of the ordinance addresses shared parking by multiple owners.

The Public Hearing was closed.

**M 659 05
Defer
Action/
Proposed
Ordinance
Relating to
Shared
Parking**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY WHICH DELETES THE EXISTING LANGUAGE AND INSERTS NEW LANGUAGE TO PERMIT THE SHARING OF REQUIRED PARKING SERVING MULTIPLE USES WITHIN THE SAME PROJECT AND UNDER THE SAME OWNERSHIP," and that the record be left open until the close of business on December 30, 2005, to accept additional written comments.

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
Relating to
Size of
Off-Street
Parking
Spaces**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO REDUCE THE SIZE OF AN OFF-STREET PARKING SPACE AND TO ALLOW A REDUCTION OF SIZE FOR COMPACT CARS UNDER CERTAIN CIRCUMSTANCES." This amendment changes the size of required off-street parking spaces as defined in Section 115-4B of the Ordinance from 10 by 20 to 9 by 18 and permits a reduction to 8 by 17 for compact cars under certain circumstances.

The Planning and Zoning Commission held a Public Hearing on this Ordinance Amendment on November 17, 2005, at which time they recommended that the

**Public
Hearing/
Proposed
Ordinance
Relating to
Size of
Off-Street
Parking
Spaces
(continued)**

amendment be approved.

(See the minutes of the Planning and Zoning Commission dated November 17, 2005, for additional information on the Ordinance Amendment, 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 the recommendation of approval. The summary was admitted as part of the County Council's record.

Mr. Lank reported that additional correspondence addressed to Mr. Jones was received from Kevin Donnelly, Director, Division of Water Resources, Delaware Department of Natural Resources and Environmental Control, dated December 13, 2005, and Constance P. Holland, Director, Delaware Office of State Planning Coordination, dated December 9, 2005, in support of the Ordinance Amendment.

Public comments were heard.

Preston Schell spoke in support of the amendment stating that both the City of Rehoboth Beach and City of Lewes do in fact have a standard parking space requirement of 9 feet by 18 feet, and that he is in agreement that the 30 percent requirement for compact cars is too high.

Dan Kramer questioned who would be enforcing the provisions of the amendment.

Tom Ford stated that he agrees with a reduction in the number and size of parking spaces; that the percentage of reduction should be set aside for open space, landscaped areas, or pedestrian walkways; that a good scenario would include three or four bays of head-in parking with a large area for landscaping; and that a committee is needed to discuss the geometry and present a recommendation to Council.

Wendy Baker stated that she participated in a roundtable discussion on this date sponsored by the University of Delaware and Delaware Department of Natural Resources and Environmental Control, Division of Soil Conservation, at which the guest speaker was John Gaadt, AICP, of Chadds Ford, Pennsylvania. She submitted for the record a copy of the powerpoint presentation from that roundtable meeting for Council's review and highlighted some of the conservation design information contained therein.

Preston Dyer spoke and expressed his opinion that the Highway Corridor Overlay Zone in areas around Route 1 which are set aside for no parking are clearly an environmental benefit; that the amendment would apply only to uses

**Public
Hearing/
Proposed
Ordinance
Relating to
Size of
Off-Street
Parking
Spaces
(continued)**

where there are 50 or more required spaces; that angular parking increases parking requirements by a significant amount; that the most appropriate and best yield comes from perpendicular head-to-head parking; that landscaping has some degree of subjectivity; that a carte blanche statement requiring space saved to go into a specific design is not advisable because there are many counter-balancing items that play into it; and that existing shopping centers and intense parking uses should be allowed to make modifications and improvements within the limitations of this amendment.

Kevin Burdette requested that the parking space requirements be referred to in terms of square foot area with a minimum and maximum width and length versus fixed dimensions.

The Public Hearing was closed.

**M 660 05
Defer
Action/
Proposed
Ordinance
Relating to
Size of
Off-Street
Parking
Spaces**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO REDUCE THE SIZE OF AN OFF-STREET PARKING SPACE AND TO ALLOW A REDUCTION OF SIZE FOR COMPACT CARS UNDER CERTAIN CIRCUMSTANCES" to allow for incorporation of suggested revisions referencing parking space requirements in square foot area and the inclusion of language providing that any space gained is to be set aside for open space, landscaping, or pedestrian walkways.

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
Relating to
Width of
Parking Lot
Interior
Drives**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 SECTION 166 OF THE CODE OF SUSSEX COUNTY TO REDUCE THE WIDTH OF PARKING LOT INTERIOR DRIVES FROM 25 FEET TO 24 FEET." This amendment changes the minimum width of parking lot driveways from the required 25 feet to 24 feet.

The Planning and Zoning Commission held a Public Hearing on this Ordinance Amendment on November 17, 2005, at which time they recommended that the amendment be approved.

(See the minutes of the Planning and Zoning Commission dated November 17, 2005, for additional information on the Ordinance Amendment, correspondence received, and the Public Hearing before the Commission.)

**Public
Hearing/
Proposed
Ordinance
Relating to
Width of
Parking Lot
Interior
Drives
(continued)**

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and the recommendation of approval. The summary was admitted as part of the County Council's record.

Mr. Lank reported that additional correspondence addressed to Mr. Jones was received from Kevin Donnelly, Director, Division of Water Resources, Delaware Department of Natural Resources and Environmental Control, dated December 13, 2005, and Constance P. Holland, Director, Delaware Office of State Planning Coordination, dated December 9, 2005, in support of the Ordinance Amendment.

Public comments were heard.

Wendy Baker requested that her comments on the preceding Ordinance Amendments be incorporated as they relate to the environmental impact of this amendment.

Preston Schell stated that this amendment simply brings the 24-foot provision in line with the Fire Marshal's Code and will be much easier for everyone knowing that the width of parking lot interior drives is uniform at 24 feet.

Mr. Griffin called for a show of hands of those present in support of the amendment. It was noted that there were eight persons present in support.

The Public Hearing was closed.

**M 661 05
Adopt
Ordinance
No. 1809
Relating to
Width of
Parking Lot
Interior
Drives**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt Ordinance No. 1809 entitled "AN ORDINANCE TO AMEND CHAPTER 115 SECTION 166 OF THE CODE OF SUSSEX COUNTY TO REDUCE THE WIDTH OF PARKING LOT INTERIOR DRIVES FROM 25 FEET TO 24 FEET."

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
Relating to
Multifamily
Parking**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 SECTION 162 OF THE CODE OF SUSSEX COUNTY TO DELETE THE PHRASE '3 PER FAMILY UNIT' AND SUBSTITUTE '2 PER DWELLING UNIT'." This amendment changes the number of parking spaces required for multifamily dwellings and townhouses from three per unit to two per "dwelling unit," as defined in Section 115-4B of the Ordinance.

**Public
Hearing/
Proposed
Ordinance
Relating to
Multifamily
Parking
(continued)**

The Planning and Zoning Commission held a Public Hearing on this Ordinance Amendment on November 17, 2005, at which time they recommended that the amendment be denied due to the lack of three affirmative votes.

(See the minutes of the Planning and Zoning Commission dated November 17, 2005, for additional information on the Ordinance Amendment, 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 the recommendation of denial. The summary was admitted as part of the County Council's record.

Mr. Lank reported that additional correspondence addressed to Mr. Jones was received from Kevin Donnelly, Director, Division of Water Resources, Delaware Department of Natural Resources and Environmental Control, dated December 13, 2005, and Constance P. Holland, Director, Delaware Office of State Planning Coordination, dated December 9, 2005, in support of the Ordinance Amendment.

Mr. Dukes took the opportunity to thank Mr. Guy, Chief of Public Information, for putting together the statistical information pertinent to parking requirements in neighboring counties and resort communities, and expressed his agreement with Ocean City's regulations that require multiple-family dwellings and townhouses to have one parking space per each efficiency unit, 1-1/2 per each one-bedroom unit, two per each two-bedroom unit, 2-1/2 per each three-bedroom unit, plus one-half space per each additional bedroom over three bedrooms. Mr. Dukes stated that he would like to see a formula based on a ratio rather than specifying two parking spaces per unit.

Mr. Cole noted that Ocean City regulations provide, "Any room as defined by Section 110-2 as being an accessory room is to be treated in the same manner as a bedroom, and required parking shall be computed accordingly."

Public comments were heard.

Preston Schell stated that a cap would be appropriate, particularly with multi-family structures, and submitted for the record several photographs of five communities in eastern Sussex County taken between 7:00 a.m. and 8:30 a.m. on Saturday, July 3, 2004, showing numerous unoccupied parking spaces, thereby disputing the argument that eastern Sussex County is in need of additional parking.

Tom Ford spoke and stated that he would like to see parking spaces counted differently; that there are many opportunities for residents to have piggyback spaces available; and that he would like to see the ordinance utilize the

**Public
Hearing/
Proposed
Ordinance
Relating to
Multifamily
Parking
(continued)**

piggyback concept as a technique to reduce paving.

Craig Hudson stated that the number of parking spaces should be geared to the number of bedrooms; that there are developments within the County containing too much parking and it is unattractive; and that ancillary rooms must have a clear definition.

Dan Kramer expressed his opinion that the Delaware Department of Natural Resources and Environmental Control seems to have a problem distinguishing between bedrooms and ancillary rooms.

Preston Dyer stated that the justification for increasing parking spaces from two to three was the proposition that a shortage of parking in townhouse projects at the beach exists; that the beach projects represent only a portion of multifamily dwellings; that community centers benefit from overflow parking; that regulations for eastern Sussex County versus western Sussex County may have to be adjusted; that the amount of overflow parking should decrease in proportion to the number of visitors at any given time; and that parking space provisions should be incrementally implemented to provide some proportion of overflow parking if a project does not have a community center.

The Public Hearing was closed.

**M 662 05
Adopt
Proposed
Ordinance
(With-
drawn)**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 SECTION 162 OF THE CODE OF SUSSEX COUNTY TO DELETE THE PHRASE '3 PER FAMILY UNIT' AND SUBSTITUTE '2 PER DWELLING UNIT'," to allow for consideration of comments received at the Public Hearing.

The Motion and second were withdrawn.

**M 663 05
Adopt
Proposed
Ordinance
Relating to
Multifamily
Parking
(Denied)**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 SECTION 162 OF THE CODE OF SUSSEX COUNTY TO DELETE THE PHRASE '3 PER FAMILY UNIT' AND SUBSTITUTE '2 PER DWELLING UNIT'."

Motion Denied: 3 Nay, 2 Yea.

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

**Reasons
for Denial**

Mr. Phillips and Mr. Jones stated that the majority of discussion taking place at the Public Hearing did not address the issue of whether two or three parking

**Reasons
for Denial
(continued)**

spaces per unit would be desirable. It was felt that modifications are needed and rather than revise the proposed Ordinance Amendment, the amendment should be rewritten taking into consideration the statements presented at the Public Hearing.

**Public
Hearing/
C/Z
No. 1592**

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 3.52 ACRES, MORE OR LESS" (Change of Zone No. 1592) filed on behalf of J & Y Parker Family, L.P.

The Planning and Zoning Commission held a Public Hearing on this application on November 17, 2005, at which time they deferred action to allow for further consideration.

(See the minutes of the Planning and Zoning Commission dated November 17, 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. The summary was admitted as part of the County Council's record.

Mr. Lank reported that additional correspondence was received from the Sussex Conservation District, dated December 9, 2005, regarding soil makeup/limitations, erosion and sediment control practices, maintaining vegetation, storm flood hazard areas, tax ditches, on-site and/or off-site drainage improvements, and wetlands.

The Council found that John H. Parker, Sr., was present on behalf of the application and stated that he has owned the property for approximately 20 years; that there are presently 17 business uses, including service uses, in the park; that a beauty school also exists in the park; that it is a clean project and this is the final phase of the park; that adjoining properties are commercial; that he has received approval from the Office of the State Fire Marshal; that he has septic capacity for the intended warehouse uses; that the capacity is available for an additional ten employees; that the stormwater management facility is sized and designed to serve the entire parcel, existing uses and proposed uses; that the stormwater management facilities run along the adjacent Dorman property; that he would be willing to make provisions for downward illumination of security lighting to accommodate Ms. Dorman; and that no additional traffic will be generated as a result of the application.

**Public
Hearing/
C/Z
No. 1592
(continued)**

The Council found that Delores Dorman was present and spoke in opposition to the application stating that the applicant applied for rezoning of this parcel nine years ago and was approved for two of the five lots; that security lighting on the existing buildings illuminates her home; that the area is predominantly residential, except for the Parker complex, with homes on both sides of Dagsboro Road and on both sides of the site; and that the use is not appropriate near a residential area.

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

**M 664 05
Defer
Action
on C/Z
No. 1592**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Change of Zone No. 1592 filed on behalf of J & Y Parker Family, L.P., pending a recommendation from the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

**Pension
Fund
Investment
Report**

Mr. Baker reported on the Sussex County Pension Committee meeting that was held on December 6, 2005, and distributed several handouts for Council's information. At that meeting, the Committee made recommendations for Council's consideration.

The Committee reviewed investment results for the Pension Fund. As of October 31, 2005, the fund value totaled \$29.3 Million—\$9.1 Million invested with Wilmington Trust, \$4.4 Million with Fidelity, and \$15.8 Million with the Delaware Local Government Retirement Investment Pool. The return as of October 31, 2005, was 3.33 percent overall. The return by fund as of October 31, 2005, for the calendar year reflected a State return of 3.9 percent, Wilmington Trust return of 3.52 percent, and Fidelity return of .97 percent. The reason for the low returns is primarily that the S&P 500 Stock Index was only up 1.1 percent during that same period. Mr. Baker advised that since the County began investing with the State of Delaware in 1997, the Wilmington Trust annual return has averaged 6.5 percent, Fidelity 7.97 percent, and the State 9.04 percent. The County's goal is eight percent.

Mr. Baker also reported that the Post-Retirement Benefit Account shows a value of \$2.8 Million as of June 30, 2005. These monies are set aside for pensioner benefits, especially group hospital. The budget for Fiscal 2006 includes a total of \$3,600,000 to be invested in the Pension Fund itself, which includes an additional amount of \$850,000 to try to bring the pension up to a fully funded level, and \$35,275 that the County has received over the last 18

Pension Fund Investment Report (continued)	<p>months from 1979 mortgage bonds. A total of \$1,551,088 will be contributed to the Pension Benefit Account as per the Fiscal 2006 Budget.</p> <p>The Pension Committee recommended, based on the returns, that the Fiscal 2006 contributions to the Pension Fund and the Post-Retirement Benefit Fund be invested with the State of Delaware Local Government Retirement Investment Pool.</p>
M 665 05 Approve Fiscal 2006 Contributions to Pension Fund/Post-Retirement Benefit Fund	<p>A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the Sussex County Council approves the recommendation of the Sussex County Pension Committee to invest the Fiscal 2006 contributions to the Pension Fund and the Post-Retirement Benefit Fund with the State of Delaware Local Government Retirement Investment Pool.</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Water Agreement/ City of Rehoboth Beach	<p>Mr. Baker discussed a proposed agreement with the City of Rehoboth Beach to provide water for the Dewey Beach Water District. The current agreement expired March 31, 2005; however, the County is continuing to purchase water at the expired contract price until December 31, 2005. The proposed agreement is for five years, from January 1, 2006, until December 31, 2010, and the rates include an increase of 10 cents per thousand gallons for calendar year 2006 and six cents per thousand gallons for the years 2007, 2008, 2009, and 2010. Other terms of the agreement would remain the same as present.</p>
M 666 05 Approve Water Agreement with City of Rehoboth Beach	<p>A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Council approves an agreement with the City of Rehoboth Beach to provide water for the Dewey Beach Water District for the period January 1, 2006, through December 31, 2010.</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Old Business/ C/U No. 1625	<p>The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE STORAGE OF POWERWASHING EQUIPMENT, LANDSCAPING SUPPLIES, AND LAND CLEARING</p>

Old
Business/
C/U
No. 1625
(continued)

EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.162 ACRES, MORE OR LESS” (Conditional Use No. 1625) filed on behalf of Samuel S. Connors.

The Planning and Zoning Commission held a Public Hearing on this application on October 27, 2005, at which time they deferred action to allow for further consideration. On November 9, 2005, the Commission recommended that the application be approved, with nine conditions.

The County Council held a Public Hearing on this application on November 15, 2005, at which time they deferred action to allow time for Council to obtain information from the Planning and Zoning Department regarding other commercial activities in the area to get an indication of the character of the neighborhood.

Mr. Lank, Director of Planning and Zoning, reported that three businesses on Jimtown Road have recently been cited for violations, including Michael C. Miller, Sr. (tax service), William and Helen Miller (lawn care business), and Monroe Brittingham (construction business). Mr. Lank advised that the applicant stated his intent to build a residence on the property in the future.

M 667 05
Adopt
Ordinance
No. 1810
(C/U
No. 1625)

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1810 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE STORAGE OF POWERWASHING EQUIPMENT, LANDSCAPING SUPPLIES, AND LAND CLEARING EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.162 ACRES, MORE OR LESS” (Conditional Use No. 1625) filed on behalf of Samuel S. Connors, with the following conditions:

1. All equipment, trucks, and supplies shall be stored inside the building to be constructed on-site.
2. There shall be no outside storage on the site.
3. There will be no outside storage of plant material on the site other than materials used on the site itself.
4. There will be only one unlighted sign on the premises that shall not exceed 32 square feet on each side.
5. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties.
6. The hours of operation of the business on this site shall be limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday. There will be no Sunday hours.

**M 667 05
(continued)**

7. No retail sales shall be conducted on or from the site.
8. The proposed building will be located at least 200 feet from the road frontage.
9. The site plan shall be subject to the approval of the Planning and Zoning Commission.

Motion Adopted: 3 Yea, 2 Nay.

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

**Old
Business/
C/Z
No. 1581**

The Council discussed 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 40,000 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1581) filed on behalf of George C. Coverdale.

The Planning and Zoning Commission held a Public Hearing on this application on October 27, 2005, at which time they deferred action. On November 30, 2005, the Commission recommended that the application be denied based on the record of the Public Hearing and since necessary agency permits for the construction were not obtained prior to construction, since no stormwater management approval was obtained prior to construction, since the building permit was issued for a private garage, and since the presentation made by the Applicant on the deed presented was different from the deed recorded.

The County Council held a Public Hearing on this application on November 15, 2005, at which time they deferred action.

**M 668 05
Adopt
Ordinance
No. 1811
(C/Z
No. 1581)**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1811 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 40,000 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1581) filed on behalf of George C. Coverdale.

Motion Adopted: 3 Yea, 2 Nay.

M 668 05

(continued)

Vote by Roll Call:

**Mr. Phillips, Nay; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Nay**

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

M 669 05	A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$250.00
Youth	from Mr. Phillips' Youth Activity Account to Millsboro Hut, Inc., toward
Activity	building expansion for scouting programs in Millsboro.

Motion Adopted: 5 Yea.

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

M 670 05 Youth Activity Grant	A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$1,000.00 (\$200.00 from each Youth Activity Account) to Delaware Roadrunners 12U Select Baseball Team for equipment, uniforms, and tournament expenses.
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Motion Adopted: 4 Yea, 1 Not Voting.

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

M 671 05 Council- manic Grant	A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$250.00 from Mr. Dukes' Councilmanic Account to the Dr. Martin Luther King, Jr., Fundraising Committee for the MLK Day of Celebration being held in Seaford on Monday, January 16, 2006.
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Motion Adopted: 5 Yea.

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

M 672 05 Community Investment Grant	A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$2,000.00 (\$1,000.00 each from Mr. Rogers' and Mr. Jones' Community Investment Accounts) to Milford New Century Club for structural repair work to the clubhouse.
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Motion Adopted: 5 Yea.

**M 672 05
(continued)**

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

**M 673 05
Youth
Activity
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$100.00 from Mr. Phillips' Youth Activity Account to the People to People Ambassador Program for Brittney Keffer to participate in the World Leadership Forum.

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. Phillips 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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.2 ACRES, MORE OR LESS" (Change of Zone No. 1595) filed on behalf of Blackwater Creek, Inc. 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 AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 232.86 ACRES, MORE OR LESS" (Change of Zone No. 1596) filed on behalf of Blackwater Creek, Inc. 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 GR GENERAL RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 273.54 ACRES, MORE OR LESS" (Change of Zone No. 1597) filed on behalf of Blackwater Creek, Inc. The Proposed Ordinance will be advertised for Public Hearing.

**Storage
Space**

Mr. Phillips questioned if any storage space is available to help alleviate a problem in the Planning and Zoning Office. Mr. Stickels stated that the

Storage Space (continued)	County is in the process of acquiring land within the Town of Georgetown that would be occupied by the Building Code Department, Engineering Department, and a Records Retention Center.
Digitizing Data	Mr. Phillips inquired about any future plans to digitize data in the Planning and Zoning Department and/or Recorder of Deeds Office. Mr. Stickels advised that the County is in the process of determining how to go about bidding out this work.
Public Comments	<p>Dan Kramer wished Council a Merry Christmas and Happy New Year.</p> <p>Rosalyn Echols expressed her “exceptional disappointment” at the affirmative votes of Mr. Phillips, Mr. Dukes, and Mr. Jones, regarding Conditional Use No. 1625 filed on behalf of Samuel S. Connors. Ms. Echols stated that her mother and other family members live on Jimtown Road, and this arbitrary decision by Council is a disgrace. The application will negatively affect the residential character of the neighborhood, and the feelings of an entire community have simply been disregarded.</p>
M 674 05 Adjourn	A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 11:08 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Susan W. Webb
Acting Clerk of the Council