

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 8, 2002

Call to Order The regular meeting of the Sussex County Council was held on Tuesday, January 8, 2002, at 10:00 a.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 Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Eugene Bayard	County Attorney

M 001 02 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to amend the Agenda by
Amend deleting the following items:

and
Approve Leon Collins, Director of Utility Billing
Agenda 1. Sewer and Water Rate Study Recommendation

Michael Izzo, County Engineer
1. Ocean View Expansion of the Bethany Beach Sanitary Sewer District
Regional Pump Station – Change Order No. 10

Derek Sapp, Project Engineer
1. Delta Airport Consultants – Contract Amendment Nos. 8 and 9

; 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 002 02 A Motion was made by Mr. Rogers, seconded by Mr. Jones, that Finley B. Jones, Jr. be
Elect elected to serve as President of the Sussex County Council for the Year 2002.
President

Motion Adopted: 5 Yea.

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

M 003 02
Elect
Vice
President

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, that Lynn J. Rogers be elected to serve as Vice President of the Sussex County Council for the Year 2002.

Motion Adopted: 5 Yea.

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

Pass Gavel

President Dukes passed the gavel to the newly elected President, Finley B. Jones, Jr.

M 004 01
Reappoint
Legal
Staff

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to reappoint Eugene H. Bayard as County Attorney and legal counsel for the Sussex County Council; to reappoint Dennis L. Schrader as Assistant County Attorney and legal counsel for the Planning & Zoning Commission; and to reappoint Richard E. Berl, Jr. as Assistant County Attorney and legal counsel for the Board of Adjustment, for the Year 2002.

Motion Adopted: 5 Yea.

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

Committees

It was the consensus of Council that all Committee appointments remain the same.

Rules of
Procedure

Mr. Stickels presented for readoption the "Rules of Procedure of the Sussex County Council of Sussex County, Delaware", as written.

Mr. Phillips recommended that the Sussex County Council hold their meetings in the evenings. He explained that his basis for this recommendation is that day meetings are not a convenient forum and that, if meetings were held at night, there would be an increase in potential candidates for elected positions.

Mr. Dukes and Mr. Rogers responded that with Planning & Zoning Commission meetings held in the evening and County Council meetings held during the day, there is more flexibility provided for the public to attend public hearings relating to zoning.

M 005 02
Change
Time of
Council
Meetings

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, that the Sussex County Council change the time of their meetings with the regular session to begin at 4:00 p.m. and the zoning hearings to begin at 7:00 p.m.

Motion Denied: 3 Nay, 2 Yea.

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

M 006 02
Readopt
Rules of
Procedure

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council readopts the "Rules of Procedure of the Sussex County Council of 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

M 007 02
Approve
Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of December 18, 2001, as distributed.

Motion Adopted: 5 Yea.

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

Corre-
spondence

Mr. Bayard read the following correspondence:

LIONS VISION RESEARCH FOUNDATION, INC. AT THE WILMER EYE INSTITUTE, THE JOHNS HOPKINS MEDICAL INSTITUTIONS, BALTIMORE, MARYLAND.

RE: Letter in appreciation of grant.

DELAWARE HOSPICE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of contribution.

SUSSEX COMMUNITY CRISIS HOUSING SERVICES, INC., GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the County's food donation for the homeless in their shelters.

KYLE BOYCE, LAUREL, DELAWARE.

RE: Letter in appreciation of grant.

Road
Name
Petition
Process/
Wil King
Road

Mr. Dukes advised Council of a letter received from Diane Loekle regarding the petition process for Wil King Road. On December 18, 2001, the County Council agreed to reopen the petition process and to allow the submittal of petitions until January 8, 2002. Ms. Loekle stated in her letter that due to the holiday season, she has had difficulty contacting all of the residents. Ms. Loekle asked for a one week extension to the petition process – until January 15, 2002.

M 008 02
Grant
Extension

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to grant a one-week extension (until January 15, 2002) to the petition process for Wil King Road.

M 008 02
(continued)

Motion Adopted: 5 Yea.

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

The issue will be placed on the Sussex County Council Agenda on January 22, 2002 for public discussion.

Appeal/
Sussex
Ventures

Mr. Stickels presented for Council's consideration an appeal to the Sussex County Planning & Zoning Commission's decision to deny an application of Sussex Ventures for the subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, Sussex County, by dividing 76.44 acres into 56 lots, located south of Road 297, 2,930 feet west of Route 30. (Subdivision Application No. 2001-32) (Country Meadows).

Mr. Stickels reported that the application was denied by the Planning & Zoning Commission for the following reasons:

- The proposed 56-lot subdivision does not meet the purpose of the Subdivision Ordinance in that it does not protect the orderly growth of the County because the proposed site is not located in a Development District as established by the 1997 Sussex County Land Use Plan.
- The proposed 56-lot subdivision does not meet the purpose of the Subdivision Ordinance in that it does not encourage the preservation and conservation of farmland because the land use in this vicinity is primarily agricultural, the application would remove 76.44 acres, more or less, from tillage, and there are no other similar residential real estate developments in this area along County Road 297.
- In considering the minimization of soil removal and grade changes; erosion and sedimentation; increased rates of runoff; potential flooding; and prevention of pollution of surface and groundwater, the application does not contain specific plans showing that these areas of concern have been addressed or that any preliminary designs for drainage have been recommended or considered.
- The proposed 56-lot subdivision does not provide for safe vehicular and pedestrian movement within the site because of the extreme length of the cul-de-sac type interior street, with access from only one roadway, causing accessibility concerns for emergency vehicles.

Mr. Cole stated that the Commission should articulate their reasons for their decision; for example, the reason "loss of farmland" is vague and the Commission should state why the loss is critical.

M 009 02
Appeal
Process

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to move forward with the appeal process on Subdivision Application No. 2001-32 (Country Meadows), an application of Sussex Ventures.

M 009 02
(continued)

Motion Adopted: 5 Yea.

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

Hearing

A Public Hearing will be scheduled for Tuesday, January 29, 2002 at 11:00 a.m.

Subdivision
Ordinance

Council discussed the Subdivision Ordinance. It was the consensus of Council that the Ordinance should function better and that the Ordinance should be discussed during a workshop session with the Planning and Zoning Commission.

Mr. Stickels advised that one of the first meetings in 2002 regarding the Land Use Plan Update will be a joint meeting with the Sussex County Council, the Planning and Zoning Commission, and the Board of Adjustment.

Adminis-
trator's
Report

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

1. Delaware Department of Transportation (DelDOT) Capital Improvement Budget Hearing

I have received notification from DelDOT that their Capital Improvement Budget hearing scheduled for January 10 at Delaware Technical & Community College, Georgetown, Delaware, has been canceled. The current Capital Improvement Plan for the Delaware Department of Transportation indicates that \$116 million will be spent for road improvements over the next five years. In September the County Council had requested that funding be increased to \$250 million for the new budget year. Once I have received notification of when the meeting has been rescheduled, I will notify the Council members.

2. Livable Delaware Agenda

For Council's convenience, I have provided an update of six items being reviewed by the Governor's Council on Planning Coordination. The report provides the status of six subcommittee meetings. There will be a subcommittee meeting for Transfer of Development Rights on Friday, January 11, 2002. The meeting will be held at the Delaware Department of Transportation, Conference Room, Dover, Delaware, starting at 9:00 a.m.

TDR
Program

Council discussed the State's proposed Transfer of Development Rights (TDR) Program. Mr. Cole recommended that the County Council take a position on the proposed program and that a letter be forwarded to the Governor's Office regarding the Council's position. It was the Council's position that mandating this legislation is unnecessary. Current State law allows for all three counties to develop a program if they choose to do so. It was noted that the County is in the process of developing a land acquisition/open space program. It is the County Council's opinion that the best way to handle this issue should be through the County's new Land Use Plan, which is in the process of being developed.

M 010 02
Send
Letter to
Governor's
Office/
TDR
Program

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to direct Mr. Stickels to send a letter to the Governor's Office advising them that the County Council opposes any State legislation that would mandate the County to have a TDR Program.

Motion Adopted: 5 Yea.

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

Bank
Account
Resolutions

Mr. Baker reviewed seven Proposed Resolutions listing the bank accounts of the Sussex County Council. The adoption of the Proposed Resolutions would reauthorize the accounts for the year 2002.

M 011 02
Adopt
R 001 02

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 001 02 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; AND D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL"

Motion Adopted: 5 Yea.

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

M 012 02
Adopt
R 002 02

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Resolution No. R 002 02 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE FACSIMILE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; AND D. B. BAKER, FINANCE DIRECTOR".

Motion Adopted: 5 Yea.

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

M 013 02
Adopt
R 003 02

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt Resolution No. R 003 02 entitled "CASH MANAGEMENT ACCOUNT RESOLUTION".

Motion Adopted: 5 Yea.

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

M 014 02
Adopt
R 004 02

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Resolution No. R 004 02 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE CITIZENS BANK BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; AND D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Motion Adopted: 5 Yea.

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

M 015 02
Adopt
R 005 02

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Resolution No. R 005 02 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE NATIONAL BANK BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Motion Adopted: 4 Yea, 1 Abstention.

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

Mr. Dukes is a member of the Board of Directors of Delaware National Bank and did not vote due to a possible conflict of interest.

M 016 02
Adopt
R 006 02

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Resolution No. R 006 02 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE NATIONAL BANK BEARING THE FACSIMILE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; DALE R. DUKES, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR".

Motion Adopted: 4 Yea, 1 Abstention.

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

Mr. Dukes is a member of the Board of Directors of Delaware National Bank and did not vote due to a possible conflict of interest.

M 017 02
Adopt
R 007 02

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Resolution No. R 007 02 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE BALTIMORE TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; AND D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

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/
CDBG
Program

A Public Hearing was held to give all citizens an opportunity to participate in the development of an application to the State of Delaware Community Development Block Grant Program for a grant under the provisions of the Community Development Act of 1977. The primary objective of the Community Development Program is the development of viable urban communities including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. It is also a primary objective to alleviate physical and economic distress through the stimulation of private investment and community revitalization in areas of population out-migration or a stagnating or declining tax base.

The Community Development Block Grant is a federal grant from the Department of H.U.D. to the Delaware State Housing Authority. Kent and Sussex Counties compete for the funding by making application to the Delaware State Housing Authority. Historically, 70 percent of the funding is for housing rehab, demolition or code enforcement and 30 percent is for infrastructure projects (streets, walks, water projects and sewer projects). There is a matching funds requirement for infrastructure projects. The maximum grant is \$800,000 unless there is an infrastructure project involved.

Mr. Lecates reviewed the income guidelines, which have been established, and other criteria which applicants must meet to be eligible to receive funding under the CDBG Program.

Mr. Stickels advised that Sussex County will be applying for over \$2 Million of the \$1.9 Million available to Kent and Sussex Counties. The application will consist of projects in the County and fifteen (15) towns.

A Proposed Resolution entitled "ENDORSING PROJECTS TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING ROBERT L. STICKELS, COUNTY ADMINISTRATOR, TO SUBMIT APPLICATIONS" was presented to Council for consideration. The Proposed Resolution lists the following projects to be submitted to the Delaware State Housing Authority for funding:

Public
Hearing/
CDBG
Program
(continued)

Application No. 1:

Lucas Development	36,000	Housing Rehab
Rural Lincoln	64,000	Housing Rehab
Coverdale Crossroads	30,000	Housing Rehab
Rural Middleford	30,000	Housing Rehab
Rural Dagsboro/Millsboro	64,000	Housing Rehab
Scatter Site	400,000	Housing Rehab
	30,000	Hookups
	16,000	Demolitions
Administration	<u>130,000</u>	
Total	800,000	

Application No. 2:

Bethel	33,550	Town Hall/Community Center Improvement
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Application No. 3:

Blades	48,000	Housing Rehab
	30,000	Handicap Accessibility Town Hall

Application No. 4:

Bridgeville	72,000	Housing Rehab
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Application No. 5:

Dagsboro	36,000	Housing Rehab
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Application No. 6:

Ellendale	200,000	Infrastructure/ Housing Rehab/Hookups
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Application No. 7:

Frankford	36,000	Housing Rehab
	20,000	Demo

Application No. 8:

Georgetown	128,299	Infrastructure
	60,000	Housing Rehab/Demo

Public
Hearing/
CDBG
Program
(continued)

Application No. 9:

Greenwood	122,600	Infrastructure
	12,000	Demo

Application No. 10:

Laurel	49,000	Infrastructure
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Application No. 11:

Millsboro	30,000	Housing Rehab
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Application No. 12:

Milford	90,000	Housing Rehab
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Application No. 13:

Milton	80,000	Infrastructure
	48,000	Housing Rehab

Application No. 14

Ocean View	72,000	Housing Rehab
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Application No. 15:

Seaford	162,000	Housing Rehab
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Application No. 16

Selbyville	41,000	Infrastructure
	36,000	Housing Rehab

Public comments were heard.

Mr. Kramer questioned where the money comes from. Mr. Lecates responded that all of the funds come from HUD and that the funds are entitlement money to the Delaware State Housing Authority.

The Public Hearing was closed.

M 018 02
Adopt
R 008 02

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to Adopt Resolution No. R 008 02 entitled "FAIR HOUSING FOR THE CITIZENS OF SUSSEX COUNTY".

Motion Adopted: 5 Yea.

M 018 02
(continued)

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

M 019 02
Adopt
R 009 02

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Resolution No. R 009 02 entitled "ENDORISING PROJECT TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AUTHORIZING ROBERT L. STICKELS, SUSSEX COUNTY ADMINISTRATOR, TO SUBMIT APPLICATION".

Motion Adopted: 5 Yea.

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

M 020 02
Adopt
R 010 02

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Resolution No. R 010 02 entitled "ENDORISING PROJECTS TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING ROBERT L. STICKELS, COUNTY ADMINISTRATOR, TO SUBMIT APPLICATIONS".

Motion Adopted: 5 Yea.

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

Cape
Henlopen
School
District
Sewer
Agreement

Mr. Archut, Assistant County Engineer, discussed a Proposed Sewer Use Agreement between Sussex County and the Cape Henlopen School District. The Agreement will enable the Cape Henlopen Middle School (CHMS) to discharge sewage from the School into the County's public sewer system under certain terms and conditions. The term of this Agreement will commence on the date that sewage is first accepted for discharge and will continue for a term of twenty (20) years from that date. Mr. Archut explained that the School is not contiguous to the County's sewer district and therefore service can only be provided through this Agreement.

M 021 02
Execute
Sewer
Agreement/
Cape
Henlopen
School
District

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council President is hereby authorized to execute an Agreement with the Cape Henlopen School District for wastewater service to be provided to their new Middle School.

Motion Adopted: 5 Yea.

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

LTS
Surge
Pump
Replace-
ment/
Bid
Results

Mr. West, Purchasing Supervisor, South Coastal Regional Wastewater Facilities, reported on the bid results for Sussex County Project No. 01-13 entitled LTS Surge Pump Replacement, as follows:

Pump & Power Equipment Corp. \$11,345.00
Jussup, Maryland

ITT Flygt Corporation \$12,125.00
Malvern, Pennsylvania

Mr. West recommended that the bid be awarded to the low bidder, Pump & Power Equipment Corp.

M 022 02
Award
Bid/
LTS
Surge
Pump
Replace-
ment

A Motion as made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 01-13, entitled "LTS Surge Pump Replacement" be awarded to the low bidder, "Pump & Power Corp" at the bid amount of \$11,345.00.

Motion Adopted: 5 Yea.

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

Proposed
Ordinance

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXPANSION OF CONDITIONAL USE NO. 1067 TO ALLOW MEAT CUTTING AND RETAIL SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.10 ACRES, MORE OR LESS" (Conditional Use No. 1447) filed on behalf of Ron Yoder. 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 MODEL HOME SALES OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,500 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1448) filed on behalf of Dick Ennis, Inc. 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 A CONTRACTOR'S YARD AND STORAGE OF MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.297 ACRES, MORE OR LESS" (Conditional Use No. 1449) filed on behalf of Donald W. Irelan. The Proposed Ordinance will be advertised for Public Hearing.

- 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 20,071 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1465) filed on behalf of Estrella P. Acosta. The Proposed Ordinance will be advertised for Public Hearing.
- Wastewater Facilities Mr. Green, Director of Utility Construction, discussed wastewater facilities constructed in Home Depot, located in the West Rehoboth Sanitary Sewer District; in DMV Partnership located in the Bethany Beach Sanitary Sewer District; and in Villages of Old Landing located in the West Rehoboth Sanitary Sewer District.
- M 023 02
Execute
Agreements/
Home
Depot A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 219, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Home Depot for wastewater facilities to be constructed in Home Depot, located in the West Rehoboth Sanitary Sewer District.
- Motion Adopted: 4 Yea, 1 Abstention.
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Abstained; Mr. Rogers, Yea;
Mr. Jones, Yea
- M 024 02
Execute
Agreements/
DMV
Partnership 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. 203, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Centrex Development L.L.C., for wastewater facilities to be constructed in DMV Partnership, located in the Bethany Beach 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
- M 025 02
Grant
Conditional
Acceptance/
Villages of
Old Landing A Motion was made by Mr. Rogers, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement Nos. 143, 166, 177, 183, and 187, that the Sussex County Council grant Conditional Acceptance for the wastewater facilities constructed in Villages of Old Landing, located in the West Rehoboth Sanitary Sewer District.
- Motion Adopted: 5 Yea.

M 025 02
(continued)

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

M 026 02
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00, \$100.00 from each Councilmanic Account, to Peninsula Bluegrass, Inc. to help defray the cost of bands at the Annual Bluegrass Show.

Motion Adopted: 5 Yea.

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

Defer
Action

The grant request from the Sussex County Warhawks Minor League Football Club was deferred.

M 027 02
Council-
manic
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$300.00, \$200.00 from Mr. Dukes' Councilmanic Account and \$100.00 from Mr. Phillips' Councilmanic Account, to the Laurel Wrestling Boosters for expenses (tournament money for meals, t-shirts and shorts, etc.)

Motion Adopted: 5 Yea.

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

M 028 02
Council-
manic
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00, \$400.00 from Mr. Dukes' Councilmanic Account and \$100.00 from Mr. Phillips' Councilmanic Account, to the Laurel Chamber of Commerce for expenses associated with the Christmas Parade.

Motion Adopted: 5 Yea.

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

Corre-
spondence

Mr. Cole read the following correspondence:

BOYS AND GIRLS CLUB OF OAK ORCHARD/RIVERDALE, MILLSBORO,
DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

Vendor
Ordinance

Mr. Cole questioned whether an ordinance has been drafted relating to vendors. Mr. Stickels will report back to Council on the status of this draft ordinance.

TDR
Program

Mr. Phillips brought up the TDR issue stating that he thought, at one time, Council had a consensus that staff should look at possibly implementing a program (on the western side of the County). Mr. Cole stated that he does not think the TDR program is appropriate for Sussex County; however, if Council really wants to pursue such a program, it should be limited to the western portion of the County. Mr. Cole further commented that a program (right now) involving the transfer of development rights is government tampering in the marketplace and that he opposes it. Mr. Rogers stated that he is receptive to learning more about the program; however, he does not want the State to mandate it. Mr. Phillips questioned whether Mr. Shafer could come up with specifics of a TDR Program in conjunction with the Land Use Plan Update. Mr. Stickels responded that Mr. Shafer will be providing information on TDRs at the next Land Use Plan Workshop. Mr. Stickels noted that, during the Land Use Plan Update meetings, none of towns expressed support of a TDR Program. Mr. Dukes noted that some of the members of the Farm Bureau oppose a TDR Program.

M 029 02
Recess

At 11:49 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Cole, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

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

Public
Hearing
(C/U
No. 1428)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A SALES CART PROGRAM FOR THE SALE OF HOT DOGS/FOOD ITEMS OFF OF A CART TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 17.48 ACRES, MORE OR LESS (Conditional Use No. 1428) filed on behalf of Kyle W. Welsh.

The Planning & Zoning Commission held a Public Hearing on this application on December 13, 2001; on December 27, 2001 the Commission recommended that the application be denied. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

Kyle Welsh and Edward Jamison were present on behalf of the application. They stated that they plan to use a mobile van and a cart; that they intend to sell food items only; and that the mobile van and cart will leave the premises every evening.

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

M 030 02
Adopt
Ordinance
No. 1515

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1515 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A SALES CART PROGRAM FOR THE SALE OF HOT DOGS/FOOD ITEMS OFF OF A CART TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 17.48 ACRES, MORE OR LESS (Conditional Use No. 1428) filed on behalf of Kyle W. Welsh, with the following conditions:

M 030 02
(continued)

1. The site shall be limited to one portable vendor.
2. Sales shall be limited to food items.
3. Vehicle shall not be parked in the Fire Lane or in handicapped parking spaces.
4. All cooking shall be limited to the immediate rear of the vehicle.
5. No less than two (2) waste containers shall be maintained in the vicinity of the van.

Motion Adopted: 5 Yea.

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

Findings
of Fact

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use will serve the public convenience as an accessory use for the benefit of customers of a large general appliance, building supply, and home equipment supply store, without adverse impact of any sort upon traffic, safety, the environment, the character of the neighborhood, or property values in the area.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Development Plan.

Public
Hearing
(C/U
No. 1429)

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 EXPANSION OF CONDITIONAL USE NO. 1112 (CUSTOM SEWING WORKROOM AND SHOWROOM) TO ALLOW FOR ADDITIONAL DISPLAY AREA, AND OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 40,000 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1429) filed on behalf of Dreamweaver Interiors LLC.

The Planning & Zoning Commission held a Public Hearing on this application on December 13, 2001 at which time they recommended that the application be approved with stipulations. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

Susan Johnson was present on behalf of the application. Ms. Johnson stated that the business has been successful and that they would like to expand; that she has six part-time employees; that all the employees are not there at the same time but they do need more room; for office and display space.

There were no public comments and the public hearing was closed.

M 031 02
Adopt
Ordinance
No. 1516

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1516 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXPANSION OF CONDITIONAL USE NO. 1112 (CUSTOM SEWING WORKROOM AND SHOWROOM) TO ALLOW FOR ADDITIONAL DISPLAY AREA, AND OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 40,000 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1429) filed on behalf of Dreamweaver Interiors LLC, with the following conditions:

1. Business hours shall be from 10:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 2:00 p.m. on Saturday, with no Sunday hours.
2. All parking areas shall be paved as required by the Zoning Ordinance.
3. The site plan shall be subject to review and approval by 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

Findings
of Fact

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use is consistent with the purposes and goals of the Comprehensive Plan and will enable the applicant to better operate and manage her successful business enterprise, without adverse impact of any sort on traffic, the environment, the character of the neighborhood, or property values therein.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1430)

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 TO STORE CONSTRUCTION EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 4.8507 ACRES OF A 23.597 ACRE TRACT" (Conditional Use No. 1430) filed on behalf of Rose Aileen Cartwright.

The Planning & Zoning Commission held a Public Hearing on this application on December 13, 2001 at which time they deferred action. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

Recess
Hearing

It was noted that the applicant was not present.

It was the consensus of Council to recess the Public Hearing.

Public
Hearing
(C/Z
No. 1454)

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-RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 30.63 ACRES, MORE OR LESS" (Change of Zone No. 1454) filed on behalf of Elmer Fannin.

The Planning & Zoning Commission held a Public Hearing on this application on December 13, 2001 at which time they recommended that the application be denied since the rezoning would be out of character with the immediate neighborhood; since there are no recreational amenities; and since there are too many units proposed on this sized parcel compared to the surrounding area. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

Elmer Fannin, Applicant; James Griffin, Attorney; and Mark Davidson of DC Group; were present on behalf of the application. Mr. Griffin advised that 214 townhomes and condominium units were proposed at the Public Hearing before the Planning and Zoning Commission; that the applicant is now proposing to reduce the density to 193 units; that it is estimated that twenty (20) units will be constructed annually; that a restrictive covenant has been recorded limiting the number of units to 193; that they propose to provide the following amenities: bocci court, badminton court; croquet court; horseshoe court; shuffleboard court; fitness stations along walking and bike way; picnic pavilion; barbecue pits; and kids playground; that the site plan has been amended; that the amended site plan includes the creation of a 100 foot building construction line from Maplewood; and that they have relocated the main interior street from Craig Boulevard within Ayedelotte Estates.

Mr. Stickels questioned Mr. Davidson whether, in his opinion, the site plan meets the intent of the RPC Ordinance (to provide for the application of design ingenuity). Mr. Davidson responded affirmatively. Mr. Stickels asked Mr. Davidson if the design of the subdivision would be improved in the number of units is reduced. Mr. Davidson responded that it would not have an affect on the overall design.

Sandra Cassidy, a resident of Maplewood, spoke in support of the Woods Cove project.

Recess

Mr. Jones, declared a five minute recess.

Reconvene

Mr. Jones called Council back into session.

Public
Hearing
(C/Z
1454)
(continued)

Public comments were heard in opposition to the application. Comments were made expressing concern that Council should not increase density until the Land Use Plan update has been completed; that in accordance with the current Land Use Plan, density should only be increased in town centers; that high density housing is inappropriate and out of character with the surrounding area; that another traffic impact study should be

Public
Hearing
(continued)

required; that the current road infrastructure is inadequate to handle the traffic this project will generate; that if this development is built, it will shorten the time before upgrades to the West Rehoboth Sewer District are necessary; that the proposed amenities are “make-shift”; that the quality and quantity of water will be threatened; and that parking is limited.

The Public Hearing was closed. It was the consensus of Council to defer action and to leave the record open for written comments for an additional thirty (30) days, until February 8, 2002.

Reopen
Public
Hearing
(C/U
No. 1430)

Mr. Jones reopened the Public Hearing on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO STORE CONSTRUCTION EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 4.8507 ACRES OF A 23.597 ACRE TRACT” (Conditional Use No. 1430) filed on behalf of Rose Aileen Cartwright.

Rose A. Cartwright was present on behalf of the application. Ms. Cartwright stated that Mr. Cartwright is a masonry contractor and that they plan on storing construction equipment and material on the site.

There were no public comments. The Public Hearing was closed and action was deferred.

Public
Hearing
(C/Z
No. 1455)

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 MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 105.47 ACRES, MORE OR LESS” (Change of Zone No. 1455) filed on behalf of Bridle Ridge Properties, LLC.

The Planning & Zoning Commission held a Public Hearing on this application on December 13, 2001 at which time they recommended that the application be approved since the use is in accordance with the 1997 Comprehensive Plan and the Strategies for State Policies and Spending Document. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

Preston Dyer, Gary McCrea, and Joe Reed (the developers) and Mark Davidson of DC Group were present on behalf of the application. Information presented to Council was the same information presented to the Commission.

Public comments were heard in opposition to the application. Comments were heard expressing concern about unsafe traffic conditions; about the cumulative impact of ongoing development in the area; that permitting a development of 277 homes on a little more than 100 acres is not responsible land use; and that residents in area communities will be impacted and their quality of life threatened.

Public
Hearing
(continued)

The Public Hearing was closed.

It was the consensus of Council that action be deferred and to request staff to develop findings.

M 032 02
Defer
Action
(C/Z
No. 1455)

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to defer action 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 MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 105.47 ACRES, MORE OR LESS" (Change of Zone No. 1455) filed on behalf of Bridle Ridge Properties, LLC.

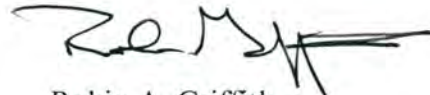
Motion Adopted: 5 Yea.

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

M 033 02
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to adjourn at 5:40 p.m.
Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council