

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 14, 2003**

**Call to Order**      The regular meeting of the Sussex County Council was held Tuesday, January 14, 2003, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**Readvertise Public Hearings**      Mr. Stickles announced that the Public Hearings on Proposed Ordinances relating to the Sheriff's Department were inadvertently left off of the Agenda. The Public Hearings will be rescheduled for February 4, 2003.

**M 030 03 Approve Agenda**      A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the Agenda, as distributed.

**Motion Adopted:**      5 Yea.

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

**M 031 03 Approve Minutes**      A Motion was made by Mr. Dukes, seconded by Mr. Jones, to approve the minutes of January 7, 2003, as distributed.

**Motion Adopted:**      5 Yea.

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

**Correspondence**      Mr. Griffin read the following correspondence:

**JOHN GENTILE, TREFFER APPRAISAL GROUP, ARNOLD, MARYLAND.**

**RE: Letter in appreciation of the "very professional and kind assistance" received from Richard Johnson in the County's Mapping Department.**

**Administrator's  
Report**

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

1. **Dr. Martin Luther King Holiday**

Sussex County offices will be closed on Monday, January 20, 2003, in observance of the Dr. Martin Luther King holiday. County offices will reopen on Tuesday, January 21, 2003, at 8:30 a.m. There will be a Council meeting at 10:00 a.m. on Tuesday.

**Hunter  
Education/  
Law  
Enforce-  
ment  
Training  
Center and  
Public  
Shooting  
Range**

Mr. Michael Friel, Hunter Education Administrator, and Mr. Phil Carpenter, Environmental Scientist, Delaware Division of Fish and Wildlife, reported that the Division of Fish and Wildlife and the Sussex County Police Chiefs Association are planning to build a combined Hunter Education/Law Enforcement Training Center and Public Shooting Range in Sussex County. The Division of Fish and Wildlife has held five Public Workshops in Sussex County to present their plans to the public. The Division is now seeking Council's endorsement.

The Delaware Division of Fish and Wildlife are proposing that the Training Center and Public Shooting Range will be located on a State-owned wildlife management area near Seaford, called the Old Furnace Wildlife Area. They are proposing to use only a portion of the approximately 2,100-acre parcel. The Training Center and Shooting Range would be used by the public and law enforcement agencies.

Mr. Friel stated, and law enforcement officers in attendance agreed, that this kind of service is needed in Sussex County. Currently, the only State-run hunter education facility is in New Castle County (Ommelanden Hunter Education Training Center) and law enforcement officers in Sussex County have to travel to New Castle County or to Maryland for training.

Mr. Friel reported that the facility will include an education building; an enclosed rifle and pistol range; and archery, clay, trap, and skeet fields. He noted that there would be a security perimeter around the facility; that the rifle and pistol range will be all cement; and that there would be a lead recovery program.

Funding for the project will be provided by U.S. Fish and Wildlife (75%) and the State of Delaware (25%). Mr. Friel advised that the site has to be approved by U.S. Fish and Wildlife officials and a federal environmental impact assessment must be completed prior to any construction.

Mr. Perdue, an area resident, stated that he does not feel the facility would be a problem; however, he is concerned about traffic and noise.

It was the consensus of Council to consider a Resolution supporting the proposal at the January 21<sup>st</sup> meeting.

**SCRWF  
Consultant  
Amendment**

Mr. Izzo, County Engineer, discussed the proposed expansion of the South Coastal Regional Wastewater Facility. Recently, a design contract was executed with Stearns and Wheler to complete the design of Phase I, which will upgrade the sludge handling facilities.

Mr. Izzo reported that the proposed Phase II is for upgrading the treatment facilities. Currently, there is an average daily flow capacity of 6 million gallons per day (mgd). An upgrade is proposed for an average daily flow of 9 mgd and a peak flow of 14 mgd. Phase II also includes upgrading from 2 clarifiers to 4 clarifiers and upgrading the 2 existing clarifiers.

Mr. Izzo proposed that some of the upgrade of the existing clarifiers be included in Phase I. Mr. Izzo recommended that Amendment No. 2, which moves the design of the clarifier upgrade into Phase I, be approved. The total of the contract amendment is \$22,000.00.

**M 032 03  
Approve  
Amendment  
No. 2/  
Agreement  
with  
Stearns &  
Wheler/  
SCRWF  
Expansion**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the County Engineering Department, that Amendment No. 2 to the Agreement with Stearns & Wheler, LLC be approved to provide Design Services to add an Air Diffuser Project to the Biosolids Upgrade for the Second Expansion to the South Coastal Regional Wastewater Facility.

**Motion Adopted:** 5 Yea.

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

**M 033 03  
Youth  
Activity  
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500.00, \$100.00 from each Youth Activity Grant Account, to the Delaware 4-H Foundation for the Delaware 4-H Program.

**Motion Adopted:** 5 Yea.

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

**Delete  
Request**

The funding request from the Mayor and Council of Georgetown was deleted due to the fact that it was not eligible for funding.

**Defer  
Action**

Action was deferred on the funding request from the Nanticoke River Marine Park.

**M 034 03  
Council-  
manic  
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$160.00 from Mr. Rogers' Councilmanic Account to the Town of Milton for portable toilets for the Municipal Park in Milton.

**Motion Adopted:** 5 Yea.

**M 034 03  
(continued)**

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

**Citizen's  
Comments**

Mr. Kramer, local resident, asked Council who paid for the luncheon that was held on January 7<sup>th</sup>. Mr. Kramer was advised that the candidates paid for the luncheon. Mr. Kramer then asked who paid for setting up and moving the tables. Council responded that they did not know and that they would find out.

**Gaithers-  
burg  
Trip**

Mr. Cole discussed the recent trip to Gaithersburg where County officials and others went to look at a development. The trip was initiated and sponsored by the Delaware Development Office. It was noted that the development has received national recognition and that the State of Delaware is interested in making the project a model for statewide development.

**M 035 03  
Recess**

At 11:04 a.m., a Motion was made by Mr. Jones, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

**Reconvene**

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

**Public  
Hearing  
(C/U  
No. 1474)**

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 A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.109 ACRES, MORE OR LESS" (Conditional Use No. 1474) filed on behalf of David A. and Karen Sposato.

The Planning and Zoning Commission held a Public Hearing on this application on December 19, 2002 at which time they recommended approval with seven conditions. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Norman Barnett, Attorney, and Mr. David Sposato, Applicant, were present on behalf of the application. They stated that the application is for a landscaping business; that his house is located on the same property; that a storage area and a new office are planned as additions to the existing building; and that there will be no retail sales.

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

**M 036 03  
Adopt  
Ordinance  
No. 1576  
(C/U  
No. 1474)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1576 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.109 ACRES, MORE OR LESS" (Conditional Use No. 1474) filed on behalf of

**M 036 03  
(continued)**

**David A. and Karen Sposato, with the following conditions:**

- 1. Business hours shall be from 7:00 a.m. to 5:00 p.m. weekdays and 7:00 a.m. to 12:00 p.m. Saturdays. There shall be no Sunday business activities.**
- 2. There shall be no retail sales.**
- 3. There shall be no employee housing on the site.**
- 4. There shall be no mechanical mulching performed on the site.**
- 5. The sign shall not be lighted.**
- 6. The existing trees between the storage building and Road 258 shall remain to a depth of at least 50 feet from the front of the property line along Road 258.**
- 7. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.**

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

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

**Findings  
of Fact**

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

- 1. The applicants voluntarily filed the application to bring the existing use as a landscaping business, into conformity with the County's zoning ordinance.**
- 2. Based on comments from DelDOT, the granting of the application will have no adverse impact on traffic on CR 258.**
- 3. There are no storm flood hazard areas or tax ditches that will be affected by the approval of the application.**
- 4. That the applicants provide seasonal employment for 40 employees.**
- 5. That the applicant does not have any retail sales; all landscaping jobs are performed on the lands of clients.**
- 6. The applicant proposes to add an office and an addition to their existing storage space.**
- 7. The business is not visible from CR 258 due to the existing woods that provides screening and the applicant has agreed to leave a 50 foot forested buffer between the road and the business buildings.**
- 8. The proposed use promotes the health, safety and morals of the present and future inhabitants of Sussex County in that the business is quiet, clean, environmentally friendly, provides substantial seasonal employment and provides a needed service need to the public, i.e. landscaping and yard maintenance services.**

**Public  
Hearing  
(C/Z  
No. 1484)**

**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 GR GENERAL RESIDENTIAL DISTRICT FOR A**

**Public  
Hearing  
(continued)**

**CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.53 ACRES, MORE OR LESS" (Change of Zone No. 1484) filed on behalf of Jacqueline M. Hickman & Others.**

The Planning and Zoning Commission held a Public Hearing on this application on December 19, 2002 at which time they deferred action. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Lank stated that the primary reason for deferral by the Commission was the question of ownership; that when the application was submitted, the Planning and Zoning Department assumed that she had received all of the property owner's agreement; however, when it was reviewed, it was discovered that they were not in total agreement. Mr. Lank noted that the original application was for the entire AR portion of the subdivision; however, based on the Engineering Department's comments, the request could be reduced to properties on New Hope Road.

Jacqueline Hickman was present and stated in her presentation and in response to questions raised by Council that the road exists that serves the lots along the south side of the subdivision; that she has letters of support from all of the residents on New Hope Road with the exception of one; that she thought the entire subdivision was GR zoned when she purchased her lots; that the lots she is purchasing are not in her name yet since she is currently leasing to own; that she wants to put mobile homes on the lots for Section 8 housing; that unless the lots are rezoned GR, mobile homes and double-wides cannot be placed on the lots; that one half of one lot that she is purchasing is GR and the other half is AR; that the intent of the application was to rezone the entire subdivision to GR; and that she has additional signatures of approval from property owners that she has received since the Public Hearing before the Planning and Zoning Commission.

Public comments were heard. Marjorie Davis spoke in opposition to the application on behalf of herself, her husband Mark, and neighbor David Piper. Mrs. Davis referred to her letter and photographs and maps of the area which were previously submitted to the Planning and Zoning Commission. This information was entered into the record. Mrs. Davis stated that the site is non-tidal wetlands; that the site is not suitable for single-family lots for manufactured homes; that central sewer is being made available to only a portion of the subdivision; and that well water in the area does not meet standard requirements.

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

**M 037 03  
Defer  
Action  
(C/Z  
No. 1484)**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on Change of Zone No. 1484, an application of Jacqueline M. Hickman & Others.**

**Motion Adopted: 5 Yea.**

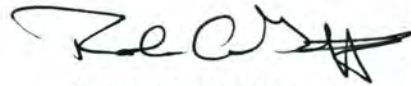
**M 037 03**  
**(continued)**

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

**M 038 03**  
**Adjourn**

**A Motion was made by Mr. Jones, seconded by Mr. Dukes, to adjourn at**  
**2:27 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

A handwritten signature in black ink, appearing to read 'R. Griffith', with a stylized flourish at the end.

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