

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 16, 2001

Call to Order The regular meeting of the Sussex County Council was held Tuesday, January 16, 2001, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

Subdivision Ordinances Council discussed whether or not to amend the agenda by deleting the subdivision ordinances which were scheduled to be discussed during the afternoon session. It was noted that Mr. Schrader, Assistant County Attorney and the author of the proposed ordinances, was out of town due to an illness in the family and; therefore, would not be in attendance. It was the consensus of Council that the discussion on the two proposed ordinances be deferred until Mr. Schrader could attend and participate in the discussion. Due to the fact that several people were expected to attend the afternoon session for the purpose of hearing the discussion on these two proposed ordinances, it was decided that the proposed ordinances would remain on the agenda for the purpose of advising those attending of the situation.

M 032 01 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve Approve the Agenda, as distributed. Agenda

Motion Adopted: 5 Yea.

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

M 033 01 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve Approve Minutes the minutes of the January 2, 2001 meeting, as distributed.

Motion Adopted: 5 Yea.

M 033 01
(continued)

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

Funding
Request/
Laurel
Community
Foundation,
Inc.

Mr. Stickels discussed a request for funding from the Laurel Community Foundation, Inc., a non-profit organization formed to help homeless persons in the Laurel area. The Laurel Community Foundation is in the process of building two transitional homes – Hope House I and II. The organization is requesting a grant from the Sussex County Council in the amount of \$2,500 to help them complete the construction of Hope House I and II. Mr. Stickels advised that only \$1,000 remains in Human Service Grant funding and \$3,000 remains in County Council Grant funding. Mr. Dukes and Mr. Phillips will review and discuss the information for a recommendation at a later date.

Oak
Orchard
Sanitary
Sewer
District
Funding

Mr. Stickels informed Council that the State of Delaware Wastewater Advisory Council recommended a funding package of \$7.7 million; a \$3.8 million grant from the State's 21st Century Fund and a \$3.9 million loan from the State's Revolving Loan Fund, for the Oak Orchard Sanitary Sewer District. The total cost of the project is estimated to be \$8.7 million. The funding package recommended by the Wastewater Advisory Council combined with the \$963,000 grant from the RDA, totals the \$8.7 million. The \$3.8 million grant and the \$3.9 million loan will allow the County to lower the average annual cost from \$595 to \$520 and will eliminate the \$1,100 hookup fee. The County will establish a policy that any home in the district that was built prior to February 1, 2001 will be exempt from paying a connection fee; homes built after that date will have to pay a connection fee. The funding is contingent on the approval of the Secretary of the Department of Natural Resources and Environmental Control and the Secretary of Finance.

Pinetown
Sanitary
Sewer
District
Funding

Mr. Stickels informed Council that the County has received a 100 percent grant for the construction costs of the Pinetown Sanitary Sewer District project, an extension of the West Rehoboth Sanitary Sewer District. The total cost of the project is estimated to be \$668,700. A grant has been obtained in the amount of \$450,321 and the State of Delaware Wastewater Advisory Council is recommending a grant in the amount of \$218,379. The grant recommended by the Wastewater Advisory Council, combined with the \$450,321 grant from the RDA, totals the \$668,700 cost of the project. The grants will allow the County to lower the average annual cost from to \$382 (per household with a 75-foot lot) and will eliminate the connection fee. The County will establish a policy that any home in the district that was built prior to February 1, 2001 will be exempt from paying a connection fee; homes built after that date will have to pay the connection fee. The funding is contingent on the approval of the Secretary of the Department of Natural Resources and Environmental Control and the Secretary of Finance.

DelDOT
Route
One
Grid
Study

Council discussed the proposed Memorandum of Agreement (MOA) between the Sussex County Council and the Delaware Department of Transportation (DelDOT) regarding the development of the State Route One Grid Program. Tricia Faust, Senior Transportation Planner, and Joe Cantalupo, Assistant Director of Planning, were in attendance to participate in the discussion. This MOA was first presented to Council during the January 2nd Council meeting.

The following sixteen points which are included in the MOA were reviewed and several revisions proposed:

1. The Department and the County will jointly develop the State Route 1 – Land Use/Transportation Study and mutually adopt and implement its findings into the official Sussex County Comprehensive Plan, zoning maps, and in the development of regulations.

(It was the consensus of Council that the following sentence shall be added to Point #1. “The final decision on land use shall be that of the County.”)

2. The Department and the County will each appoint a representative to jointly lead the development of the State Route 1 – Land Use/Transportation Study.

(No changes recommended.)

3. The appointed Department and County representatives will be the liaison to their respective organizations to facilitate communications and share technical information in the development and implementation of the findings of the State Route 1 – Land Use/Transportation Study.

(No changes recommended.)

4. The Department and the County will jointly hold public information meetings on the State Route 1 – Land Use/Transportation Study wherein the proposed policies, regulations, and projects will be presented and public participation encouraged.

(It was the consensus of Council to amend Point #4 to read as follows: “The Department and the County will jointly hold public participation/information meetings on the State Route 1 – Land Use/Transportation Study wherein the proposed policies, regulations, and projects will be presented and public participation encouraged. All public meetings shall be held within the study area.”)

DelDOT
Route
One Grid
Study
(continued)

5. The Department and the County will jointly establish a Public Advisory Committee (PAC) that will assist in the coordination of planning issues associated with the preparation of the State Route 1 – Land Use/Transportation Study. The PAC will be co-chaired by a representative each from the Department and the County.

The Department and the County shall appoint the following members of the PAC:

- a. Citizens (5 members, selected jointly by the Department and the County)
- b. President of County Council (1 member)
- c. The mayors of Rehoboth Beach, Lewes, Dewey Beach, and Henlopen Acres (4 members)

In addition, the following entities shall appoint members to the PAC:

- a. Sussex County Planning and Zoning (1 member)
- b. Sussex County Volunteer Fireman's Association (1 member)
- c. Council on Transportation (1 member)
- d. Sussex County Farm Bureau (1 member)
- e. Center for Inland Bays (1 member)
- f. Lewes Chamber of Commerce (1 member)
- g. Rehoboth/Dewey Beach Chambers of Commerce (1 member)
- h. Citizen Coalition (1 member)
- i. West Side New Beginnings (1 member)
- j. Southern Delaware Home Builders Association (1 member)
- k. Sussex County Association of Realtors (1 member)

The following entities shall appoint technical advisory members to the PAC:

- a. Delaware Department of Agriculture (1 member)
- b. Delaware Department of Natural Resources & Environmental Control (1 member)
- c. Sussex County Conservation District (1 member)
- d. Delaware Transit Corporation (1 member)
- e. Delaware River and Bay Authority (1 member)
- f. Office of State Planning (1 member)
- g. Sussex County Economic Development (1 member)
- h. Delaware Historic Preservation Office (1 member)
- i. Sussex County Engineering Department (1 member)

In addition, the following entities shall be included as invitees to all PAC meetings:

- a. State Representative (1 member)
- b. State Senators (2 members)
- c. Sussex County Administrator (1 member)
- d. Secretary of the Department of Transportation (1 member)

DelDOT
Route
One
Grid
Study
(continued)

(It was the consensus of Council to amend Point #5 to include the following: "Sussex County Council Representatives for the Study Area (2 members)")

6. The Department and the County agree that the State's capacity roads in the "Grid" area should have limited access. The roads needed for regional capacity purposes should have limits on immediate side road access, in order to preserve their capacity for as long as possible.

(Council discussed various amendments to Point #6; for example, changing "should" to "may" in the first sentence; defining capacity roads; and addressing the concept of granting a temporary access until grid roads are available. It was the consensus of Council that Mr. Cantalupo will rewrite Point #6 addressing Council's concerns and questions.)

7. The Department will determine the alignments needed for regional capacity needs in the SR-1 "Grid" area based on the findings of the State Route 1 – Land Use/Transportation Study.

(No changes recommended.)

8. The Department will commit to a plan for constructing the capacity routes and other improvements, including multimodal improvements such as provisions for bicycle, pedestrian and transit travel, in the same time frame used for the Sussex County Comprehensive Plan and the Sussex County Long-Range Transportation Plan, approximately 20 years.

(No changes recommended.)

9. The Department will lead the effort to submit projects into the pipeline to be reviewed by the Project Development Committee, once the alignments are determined (through the State Route 1 – Land Use/Transportation Study).

(No changes recommended.)

10. The Department's Program Development process of prioritization for capacity road projects will be used to decide the order in which usable segments are built during the 20-year period. This process will take into account the need to promote or take advantage of donations or other developer contributions to meeting those needs; however, the prioritization process will be flexible enough to permit a shift in project priorities in the SR-1 "Grid" area.

(No changes recommended.)

DelDOT
Route
One
Grid
Study
(continued)

11. The Department and the County will continue its interconnection practices/policy wherever possible. Approvals of any land development proposed in the State Route 1 – Land Use/Transportation Study (“Grid”) area and dedicated to public use will be conditioned upon securing interconnections between and among other nearby land development. This requirement will assure the provision of connectivity options at the basic level.

(No changes recommended.)

12. The County, as the agency responsible for land use, will include the findings of the State Route 1 – Land Use/Transportation Study in the Comprehensive Plan update to include the regional capacity routes, to create the necessary reserved areas for the routes and assure the preservation of these alignments during the 20-year period.

(No changes recommended.)

13. The County will include recommendations in the mobility element of the Sussex County Comprehensive Land Use Plan for review as required by law to respect the property rights related to the reservation of land for the capacity road network.

(No changes recommended.)

14. The Department and the County will adjust the dedication/State acceptance process for connectivity network improvements in the SR-1 Grid area. In an effort to assure the appropriate transportation network will be in place when and where it is needed, it may be preferable for the County Council to adopt a change in their subdivision standards, to require any roads in the SR-1 Grid area to be built to State standards.

(No changes recommended.)

15. This MOA may be amended by the written consent of both parties.

(No changes recommended.)

16. The undersigned recognize the complexity of the transportation planning and programming process and will endeavor to ensure that all personnel involved in their jurisdiction will cooperate fully in carrying out the intent and provisions of this Memorandum of Agreement, and any amendments or additions agreed to by the signatures.

(No changes recommended.)

DelDOT
Route
One
Grid
Study
(continued)

Mr. Stickels advised that the MOA, in the amended form, will be placed on the agenda in two weeks for further discussion.

Mr. Phillips recommended that the newly appointed Secretary of DelDOT be invited to attend a Council meeting.

Mr. Dukes commented on the letter received from Richard Anthony relating to the Memorandum of Agreement. This letter will be shared with DelDOT.

Adminis-
trator's
Report

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

1. Paramedic Anniversary

The Sussex County Council will honor Sussex County Paramedics on Friday, January 19, 2001, with a luncheon at the CHEER Center located on Sand Hill Road, Georgetown. Paramedics who were hired and are still County employees will be recognized, along with the first graduating class of paramedics. Representative Bruce Ennis will be the keynote speaker. The program will start at 12:00 noon. The media is encouraged to attend this festivity.

2. Sussex County Volunteer Firemen's Association

The Sussex County Volunteer Firemen's Association will meet on Tuesday, January 23, 2001, at 7:00 p.m. The meeting will take place at Grace Methodist Church, Market Street, Georgetown, and will be hosted by Ambulance Stations 91 and 93. During the meeting the County Council will distribute \$235,746 to the fire service. These funds generated for the last quarter of calendar year 2000 were collected on the building property tax premium. The FY 2001 budget contains a contribution from the Council of \$1.8 million.

Terminal
Building
Bid
Results

Mr. Sapp, Project Engineer, presented the bid results for the Terminal Building project, as follows:

	<u>BIDDER</u>	<u>BASE BID</u>	<u>ALT. #1</u>	<u>TOTAL</u>
CMSI, Inc.		\$1,069,900	\$47,400	\$1,117,300
J. A. Moore & Sons, Inc.		\$1,153,000	\$43,200	\$1,196,200
Kent Construction		\$1,174,500	\$39,860	\$1,214,360
The Whayland Co.		\$1,165,000	\$39,900	\$1,204,900

The bids will be reviewed for a recommendation at a later date.

Public Hearing
(Amending
Budget)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2001 TO FURTHER DESCRIBE REALTY TRANSFER TAX – SEWER AND WATER DISTRICT CONTRIBUTING EXPENDITURES". The purpose of this Proposed Ordinance is to more accurately describe expenditures from Realty Transfer Tax Sewer and Water contributions for Fiscal 2001. The proposed change would adjust the budget ordinance language to reflect debt reduction for the sewer districts. The current budget includes \$2.8 million for debt reduction for County sewer districts. This amendment reflects a more detailed plan for expenditures of these funds. With the assistance of Fairmont Capital, the County's financial advisor, and Charles McDowell, the County's bond counsel, Mr. Baker recommended a plan for the use of the funds. Mr. Baker recommended a change in the budget ordinance language so that investment earnings on the funds will not be "yield restricted". If the change is not made, any investment of these funds will be yield restricted at approximately 5 1/2 percent. The status of the funds will be reviewed at least once each year.

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

M 034 01
Adopt
Ordinance
No. 1428

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Ordinance No. 1428 entitled "AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2001 TO FURTHER DESCRIBE REALTY TRANSFER TAX – SEWER AND WATER DISTRICT CONTRIBUTING EXPENDITURES".

Motion Adopted: 5 Yea.

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

Proposed
Ordinance

Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PAVING BUSINESS (CONTRACTOR'S YARD AND EQUIPMENT STORAGE) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS" (Conditional Use No. 1392) filed on behalf of Clarence James Reed II and Mary Catherine Reed. 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 A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (16 UNITS) AS AMENDMENT

Proposed Ordinance (continued)

TO CONDITIONAL USE NO. 1307 CONDITIONS OF APPROVAL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS” (Conditional Use No. 1393) filed on behalf of Gull Point Trust. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 24.45 ACRES, MORE OR LESS” (Change of Zone No. 1430) filed on behalf of Rehoboth Home Builders, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.02 ACRES, MORE OR LESS” (Change of Zone No. 1431) filed on behalf of K.E.B. Properties, L.L.C. 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 2.291 ACRES, MORE OR LESS” (Change of Zone No. 1432) filed on behalf of David A. Ritter. The Proposed Ordinance will be advertised for Public Hearing.

M 035 01 Councilmanic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00, \$250.00 each from Mr. Phillips’ and Mr. Dukes’ Councilmanic Accounts, to the Laurel Alumni Association to provide funding for scholarships.

Motion Adopted: 5 Yea.

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

M 036 01 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$1,000.00, \$200.00 from each Councilmanic Account, to the Sussex County Veterans Council to purchase flags to place on the graves of Veterans on Memorial Day.

Motion Adopted: 5 Yea.

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

M 037 01 Recess At 11:25 a.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

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

Public Hearing 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 DOCTOR'S OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 16,000 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1377) filed on behalf of William A. Thomas. The Planning and Zoning Commission held a Public Hearing on this application on December 28, 2000, at which time they recommended approval with stipulations.

The Council found that William Thomas, M.D. was present on behalf of his application and stated that he proposes an office with parking to the rear of the improvements.

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

M 038 01 Adopt Ordinance No. 1429 (C/U No. 1377) A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1429 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DOCTOR'S OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 16,000 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1377) filed on behalf of William A. Thomas, with the following conditions:

1. One lighted ground sign, not exceeding 3 feet by 4 feet may be permitted.

M 038 01
(continued)

2. Business hours may be from 9:00 a.m. to 5:00 p.m., Monday through Friday. Saturday hours may be permitted if needed. There shall be no Sunday hours.
3. Parking shall be to the rear of the building only.
4. The residential character of the building shall be maintained.
5. 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. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, 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 a community need without adverse impact of any sort, while at the same time being consistent with the Comprehensive Land Use Plan.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Subdivision
Ordinances

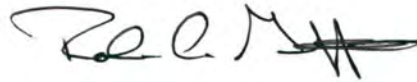
Mr. Dukes commented on the subdivision ordinances which were scheduled to be discussed during the afternoon session. He noted that Mr. Schrader, Assistant County Attorney and the author of the proposed ordinances, was out of town due to an illness in the family and; therefore, would not be in attendance. It was the consensus of Council during the morning session that the discussion on the two proposed ordinances be deferred until Mr. Schrader could attend and participate in the discussion. Due to the fact that several people were expected to attend the afternoon session for the purpose of hearing the discussion on these two ordinances, it was decided that the ordinances remain on the agenda for the purpose of advising those attending of the situation.

Mr. Bayard stated that, with respect to both of these proposed ordinances, the public record has been closed and; as a consequence, no further public comment can be received without reopening the record and readvertising the Proposed Ordinance.

M 039 01
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to adjourn at 1:48 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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

Robin A. Griffith
Clerk of the Council