



## *Sussex County Council Agendas & Minutes*

### **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 24, 2006**

#### **Call to Order**

The regular meeting of the Sussex County Council was held Tuesday, January 24, 2006 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>

#### **M 077 06 Amend and Approve Agenda**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to amend the Agenda by deleting the following:

- Oak Orchard Sanitary Sewer District, Contract D, Change Order No. 2
- Grant Request – City of Rehoboth Beach
- Grant Request – Town of Millville
- Grant Request – University of Delaware Sea Grant Program

; and to approve the Agenda, as amended.

**Motion Adopted: 5 Yea.**

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

#### **M 078 06 Approve Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the minutes of January 10, 2006.

**Motion Adopted: 5 Yea.**

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

**Corre-  
spondence**

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

**Corre-  
spondence  
(continued)**

**MEALS ON WHEELS OF LEWES & REHOBOTH, INC., LEWES,  
DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**Appoint-  
ments**

**The Council discussed reappointments to various Committees and Boards  
for the Year 2006.**

**M 079 06  
Council  
Appoint-  
ments for  
2006**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, to appoint  
Lynn J. Rogers to serve on the Delaware League of Local Governments  
Board of Directors; to appoint Finley B. Jones, Jr. to serve on the National  
Association of Counties Board of Directors; to appoint Finley B. Jones, Jr.  
to serve on the Sussex Conservation District Board of Directors; to appoint  
Lynn J. Rogers to serve on the Sussex County Airport Committee; to  
appoint Lynn J. Rogers to serve on the Sussex County Association of Towns  
Steering Committee; to appoint Dale R. Dukes and Vance Phillips to the  
Sussex County Land Trust Committee; to appoint Lynn J. Rogers and  
Finley B. Jones, Jr. to serve on the Delaware Association of Counties Board  
of Directors; and to appoint Dale R. Dukes to serve as the Delaware  
Association of Counties' 3rd Vice President.**

**Motion Adopted: 5 Yea.**

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

**Certificate  
of Achieve-  
ment for  
Excellence  
in  
Financial  
Reporting**

**Mr. Stickels announced that Sussex County, for a third consecutive year,  
has won the Certificate of Achievement for Excellence in Financial  
Reporting for its Comprehensive Annual Financial Report for Fiscal Year  
2004. The award is among the highest forms of recognition for  
governmental accounting and financial reporting. The Government  
Finance Officers Association of the United States awarded the Certificate of  
Achievement to the County in 2005. Mr. Stickels noted that only  
approximately two percent of counties receive this prestigious award. The  
following County employees were recognized for their efforts in compiling  
the report: Susan Webb, Jeff James, Mary Matthews, Chris Parker, Eddie  
Sparpaglione, Bill Townsend, Patti Faucett, David Baker, and Robert  
Stickels.**

**Adminis-**

**trator's  
Report**

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

**1. Beneficial Acceptance**

**The Engineering Department gave Beneficial Acceptance on January 11, 2006, to Bayview Landing – Phase III, Agreement No. 367. This project is located on the north side of Route 54, east of Swann Keys, in the Fenwick Island Sanitary Sewer District, consisting of 54 single-family lots. Included with this report is a fact sheet on the project.**

**Wellhead  
Protection  
and  
Ground-  
water  
Resources  
Contract**

**Mr. Lank, Director of Planning and Zoning, advised the Council that in November 2005, the County was reminded of 7 Delaware Code §6081 - §6084 requiring counties and municipalities with populations of 2,000 persons or more, with the assistance of DNREC, to adopt as part of the update and implementation of their 2007 Comprehensive Land Use Plans, the overlay maps delineating, as critical areas, source water assessment, wellhead protection and excellent ground-water recharge potential areas. Furthermore, the counties and municipalities are to adopt, by December 31, 2007, regulations governing the use of land within those critical areas designed to protect those critical areas from activities and substances that may harm water quality and subtract from overall water quantity.**

**Mr. Lank reported that the County requested and received a Scope of Services proposal from four different consultants: Davis, Bowen & Friedel, Inc., Duffield Associates, George Miles & Buhr, LLC, and Whitman, Requardt and Associates, LLP. Each firm was asked to provide the following information: scope of services, fee estimate, schedule, etc.**

**Mr. Lank reported that the consultants were advised that a committee would be established by the County to provide review and/or direction of the ordinance development process. The Committee may include ten people appointed by the Council plus some County staff participation and resource agency participation. Mr. Lank noted that, typically, when committees have been established in the past, each Councilman has been asked to appoint two people from their district to serve on the Committee. (Mr. Stickels asked that each Councilman submit two names by February 7th.)**

**Mr. Stickels stated that Duffield Associates has been selected and is being recommended based on their experience. He noted that the Scope of Services proposal is not a contract that is based on bids. Duffield Associates proposes to provide services on an actual time spent basis in accordance with an hourly rate schedule, with a contract proposal in an amount not to exceed \$24,650.00; exceeding this amount would require the Council's approval. (Mr. Stickels noted that the cost is based on four committee meetings and two public hearings.)**

**The Council expressed concerns about the necessity of protecting resources and permitting development and the designation of excellent recharge areas; that the County consists of a broad constituency and that the**

Committee would represent that constituency; that acreage would be taken out of development for the groundwater recharge areas; that farmers have a great concern about this; that Duffield Associates must remain aware that they would be working for the County and not the State.

Contract  
(continued)

Jeffrey Bross of Duffield Associates concurred that the regulations are going to have to be tailored specifically to Sussex County and the interests therein; that Sussex County has an abundance of groundwater and the degrees of protection that need to be afforded in Sussex County may be considerably different than some of the models that people are suggesting; that it is possible to accommodate resource protection and development using certain techniques of science and engineering; and that they understand that their goal is to make sure the Council and the citizens of Sussex County approve of the outcome.

The Council agreed to appoint two citizens from each Councilmanic District to the committee.

Mr. Phillips requested that the Council defer action on awarding the contract for one week.

Old  
Business  
(C/Z  
No. 1592)

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 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; on December 15, 2005 the Commission recommended that the application be approved.

(See the minutes of the meeting 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 Council’s record.

The County Council held a Public Hearing on this application on December 13, 2005 at which time action was deferred pending a decision from the Planning and Zoning Commission.

M 080 06  
Adopt  
Ordinance

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1822 entitled “AN ORDINANCE TO AMEND THE

**No. 1822**      **COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN**  
**(C/Z**           **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1**  
**No. 1592)**    **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.**

**Motion Adopted: 5 Yea.**

**M 080 06**  
**(continued)**

**Vote by Roll Call:**

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

<p><b>Old Business (C/U No. 1630)</b></p>	<p><b>The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS” (Conditional Use No. 1630) filed on behalf of Phillip L. Troyer.</b></p>
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**The Planning and Zoning Commission held a Public Hearing on this application on December 8, 2005 at which time they deferred action; on January 4, 2006 the Commission recommended that the application be approved with conditions.**

**(See the minutes of the meeting of the Planning and Zoning Commission dated January 12, 2006 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 Council's record.**

**The County Council held a Public Hearing on this application on January 3, 2006 at which time action was deferred pending a decision from the Planning and Zoning Commission.**

**M 081 06**  
**Adopt**  
**Ordinance**  
**No. 1823**  
**(C/U**  
**No. 1630)**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1823 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS" (Conditional Use No. 1630) filed on behalf of Phillip L. Troyer, with the following conditions:

- 1. There shall be no more than nine parking spaces on the site.**

**M 081 06**  
**(continued)**

2. There will not be any outside storage of junked vehicles, automobile parts, equipment, tires, or other materials used to repair cars.
3. No vehicles for sale will be displayed on the premises.
4. The only repair work allowed in the shop will be for automobiles and trucks.
5. The shop will only be operated between the hours of 8:00 a.m. until 8:00 p.m. Monday through Friday, and 8:00 a.m. until 12:00 noon on Saturday.
6. There will be no more than two employees in addition to the Applicant working on the premises at any one time.
7. There shall only be one (1) unlighted sign on the property, advertising the business, not to exceed 32 square feet in size on either side.
8. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties.
9. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
10. The existing fence on the property must remain or be improved in its current location.

**Motion Adopted: 5 Yea.**

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

**Bayview  
Estates  
and Sea  
Country  
Estates  
SSD**

**Mr. Izzo, County Engineer, presented Change Order No. 3, a balancing change order to close out the Bayview Estates and Sea Country Estates Sanitary Sewer District. He reported that Substantial Completion was granted on January 3, 2006 and hook-ups to the system began on that date. As a result, the contract is being closed out with a Change Order in the credit amount of \$89,094.23, which balances the used quantities for the time and material contract.**

**M 082 06**  
**Approve**  
**Change**  
**Order/**  
**Bayview**  
**Estates**  
**and Sea**  
**Country**  
**Estates**  
**SSD**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP, and the County Engineering Department, that the Balancing Change Order (No. 3) for Sussex County Project No. 03-04, Bayview Estates and Sea Country Estates Sanitary Sewer District, with Edward McGinn General Contractors, Inc. be approved in the credit amount of \$89,094.23, which decreases the contract total to \$3,601,287.77.**

**Motion Adopted: 5 Yea.**

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

**Requests**

**M 083 06**

**Mr. Stickels presented grant requests for the Council's consideration.**

**Youth Activity Grant**                      **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to the Sussex Stars 10U Team for tournament expenses.**

**Motion Adopted:        5 Yea.**

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

**M 084 06 Councilmanic Grant**                      **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00 from Mr. Jones' Councilmanic Grant Account to the Georgetown Lions Club for vision programs.**

**Motion Adopted:        5 Yea.**

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

**M 085 06 Councilmanic Grant**                      **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00 from Mr. Jones' Councilmanic Account to the Woodbridge High School (United States Marine Cops JROTC) for the Rifle Team's travel expenses.**

**Motion Adopted:        5 Yea.**

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

**M 086 06 Councilmanic Grant**                      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Jones' and Mr. Phillips' Councilmanic Accounts) to the Millsboro Rotary Club for the 2006 Rotary Story Book.**

**Motion Adopted:        5 Yea.**

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

**Introduction of Proposed Zoning Ordinances**                      **Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE SALES LOT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.14 ACRES, MORE OR LESS" (Conditional Use No. 1673) filed on behalf of William Kevin Clark. The Proposed Ordinance will be advertised for Public Hearing.**

**Introduction**

**of Proposed Zoning Ordinances**      **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RETAIL AND OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.46 ACRE, MORE OR LESS” (Conditional Use No. 1674) filed on behalf of SCAT 1, LLC. The Proposed Ordinance will be advertised for Public Hearing.**

**Introduction of Proposed Zoning Ordinances**      **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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS” (Change of Zone No. 1604) filed on behalf of Terrance Babbie. The Proposed Ordinance will be advertised for Public Hearing.**

**Additional Business**      **Dan Kramer talked about a meeting he attended in Greenwood concerning “what do you want in your community”.**

**M 087 06 Recess**      **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to recess for the purpose of awaiting the arrival of the guest speaker. Motion Adopted by Voice Vote.**

**Delaware Division of Fish and Wildlife Habitat Conservation Plan**      **Holly Niederriter and Karen Bennett of the Delaware Division of Fish and Wildlife and the Natural Heritage and Endangered Species Program were present to give a presentation on a Habitat Conservation Plan for Delmarva Fox Squirrel and Other Species. Also present were Paul Fromer with Recon Environmental, Inc. and Karen Terwilliger and Harmony Hall of Terwilliger Consulting.**

**Ms. Niederriter spoke about the Delaware Division of Fish and Wildlife’s development of a Habitat Conservation Plan (HCP), an endangered species conservation project designed specifically for Sussex County. She stated that there are two primary goals of the Plan: (1) to enhance conservation for endangered species in Sussex County, particularly the Delmarva Fox Squirrel and the Bald Eagle and (2) to alleviate conflicts between landowners and endangered species. The HCP would provide the foundation to achieve conservation benefits for forest-dependent species, including the Delmarva fox squirrel, in balance with other important community goals and to alleviate impacts on private landowners.**

**Ms. Niederriter advised that it is the intent of the Delaware Division of Fish and Wildlife to prepare a plan in cooperation with the County and that the Division is asking for the County’s participation in Public Advisory Meetings and reviewing documents.**



**Mr. Stickels advised that Rick Kautz would be the contact person for the County.**

**M 088 06  
Adjourn**

**A Motion was made by Mr. Dukes, seconded by Mr. Cole, to adjourn at 11:40 a.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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