

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 2, 1999

Call to Order The regular meeting of the Sussex County Council was held Tuesday, February 2, 1999, 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
Dale R. Dukes	Member
George B. Cole	Member
Vance Phillips	Member

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

M 060 99 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Approve Agenda approve the Agenda, as presented.

Motion Adopted: 5 Yea.

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

M 061 99 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Approve Minutes approve the minutes of the previous meeting, dated January 26, 1999.

Motion Adopted: 5 Yea.

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

Corre- Mr. Bayard, County Attorney, read the following correspondence: spondence

U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA, PENNSYLVANIA.
RE: Public Notice to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the Lewes Yacht Club, Incorporated for the Lewes and Rehoboth Canal.

DIVISION OF AIR & WASTE MANAGEMENT, DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL, STATE OF DELAWARE, DOVER, DELAWARE.

RE: Legal Notice of a public hearing that will be conducted on a revision to the State Implementation Plan for the Attainment and Maintenance of the Ozone Air Quality Standard.

Corre- S. BRADLEY CONNOR, MAYOR, TOWN OF DAGSBORO, DAGSBORO, DELAWARE.
spondence RE: Letter in reference to the Delaware Department of Trans-
(con't) portation's Access Management Plan.

GEORGE T. BEAUCHAMP, EXECUTIVE DIRECTOR, GREATER SEAFORD
CHAMBER OF COMMERCE, SEAFORD, DELAWARE.
RE: Letter in appreciation of Mr. Dukes' Councilmanic Grant.

Committee Mr. Stickels, County Administrator, advised Council that
Vacancies (1) Mr. Conrad Boisvert's term on the Board of Assessment
Review has expired and (2) Ms. Sandra Dole's term on the
Advisory Committee for Handicapped and Aging Citizens of
Sussex County has expired.

M 062 99 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to
Committee appoint George F. Couch to the Board of Assessment Review
Appoint- for a term of five years.
ment

Motion Adopted: 5 Yea.

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

M 063 99 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to
Committee appoint Lucien Ferguson to the Advisory Committee for
Appoint- Handicapped & Aging Citizens of Sussex County for a term
ment of two years.

Motion Adopted: 5 Yea.

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

Surplus Mr. Stickels, County Administrator, advised that he has
Property been notified by Thomas J. Maguire, Director, Property
Disposal Division, U.S. General Services Administration,
that the property identified as the UPH Building, Rehoboth
Beach, Delaware, has been determined to be surplus Govern-
ment property and is available for disposal. The property
consists of a 3,600 square foot building only (no land)
and is located at 800 Inlet Road, Rehoboth Beach, Delaware.
The property is located within the Delaware Seashore State
Park and is landlocked. The underlying fee land is owned
by the State of Delaware and is not part of the surplus
property. The building would be available for off-site
removal; the building has termite damage. It was the con-
sensus of Council that this building would be of no use to
the County. Council recommended that the State of Delaware
take possession of the building as they are the owners of the
property.

Assess-
ment
and
Taxation

Mr. Stickels, County Administrator, and Mr. Schrader, Assistant County Attorney, reported to Council on assessment and taxation. As a result of Mr. Phillips pursuing an increase in tax exemptions for senior citizens, he had requested that the County Administrator prepare a report explaining the interrelationship between County and school taxes and the power of the County to assess properties and levy and collect taxes. Mr. Schrader assisted Mr. Stickels in the preparation of the report by providing a legal opinion. The report outlined the County's current practices and the general purposes of assessment and taxation.

The report revealed that County Ordinance No. 352 (Real Property Tax Exemption for Senior Citizens) conflicts with State authority in Title 9 §8132. Mr. Stickels advised that the County has several alternatives regarding this issue. The first would be to leave exemptions as they are listed in Ordinance No. 352, as the County has exceeded the amounts authorized by Title 9 since 1977. The second would be to ask the General Assembly to raise the exemptions to equal that of Ordinance No. 352. The third would be to ask the General Assembly to empower Sussex County to have the same authority as Kent County in setting their own exemptions.

Mr. Schrader referred to the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 103, ARTICLE II, OF THE SUSSEX COUNTY CODE RELATING TO REAL PROPERTY TAX EXEMPTION FOR SENIOR CITIZENS" that is scheduled for Public Hearing on February 16, 1999, and three amendments to State law that would be necessary (1) to bring the County in conformance with State law as to income levels exempting senior citizens from paying property taxes and (2) to raise the income levels in excess of the amounts currently permitted by County Ordinance No. 352. The three amendments include: (1) enabling Sussex County to provide for exemption of citizens over 65 years of age from real property taxes, by ordinance, to such degree in such manner and amounts as it determines, (2) enabling school districts to provide for the exemption of citizens over 65 years of age from real property taxes to such degree in such manner and amounts as it determines (this exemption may differ from that of the County in which the district is located), and (3) enabling Sussex County to provide for the exemption of mobile homes owned by citizens over 65 years of age from real property taxes, by ordinance, to such degree in such manner and amounts as it determines

Mr. Phillips asked for Mr. Stickels' recommendation in this matter. Mr. Stickels recommended that the County seek the same authority as Kent County to include the authority to set exemptions for school taxes.

M 064 99 A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Authorize authorize the County Administrator and the County Lobbyist Lobbying to ask the General Assembly to empower Sussex County to have to allow the same "Home Rule" authority as Kent County in setting Sussex their own exemptions for County taxes to include empowering County Sussex County to set their own levels of exemptions for school to set taxes. (Amending Delaware Code, Title 9, § 81-41 and § 83-64.)own Tax Motion Adopted: 5 Yea. Exemp- tion Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Levels Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea

Question Mr. Dukes questioned whether the County should proceed with Regarding the Public Hearing scheduled for February 16, 1999, since Public the County does not have the authority to enact the amend- Hearing ments contained in the Proposed Ordinance. No action was Scheduled taken to cancel the scheduled Public Hearing.

Proposed Mr. Phillips introduced a Proposed Ordinance entitled "AN Ordinance ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ENTITLED "ZONING", TO AMEND THE PROVISIONS RELATING TO THE PLACEMENT AND REGULATIONS OF MOBILE HOMES IN CERTAIN DISTRICTS". Mr. Phillips advised that the Proposed Ordinance reestablishes a grand fathering clause that was taken away by the adoption of the County's Land Use Plan. The Proposed Ordinance will be advertised for Public Hearing.

Adminis- Mr. Stickels, County Administrator, read the following trator's information in his County Administrator's Report: Report

1. Public Workshop

A reminder that the County Council, Planning and Zoning Commission, and Board of Adjustment will be conducting a public workshop starting at 7:00 p.m. on Thursday, February 4, 1999. Although the Council will not be taking public comments at the workshop, the public as well as the media are allowed to attend. Included with this report is a copy of the proposed agenda.

2. Public Workshop - Delaware Department of Transportation

The Delaware Department of Transportation will be conducting a public workshop for the proposed reconstruction of the SR5 and SRI intersection in Sussex County. The meeting will be held on Wednesday, February 17, 1999, between the hours of 4:00 and 8:00 p.m. at the H. O. Brittingham Elementary School, 400 Mulberry Street, Milton, Delaware. The purpose of the project is to

Adminis-
trator's
Report
(con't)

improve safety, including modifying the existing concrete islands at the intersection to redirect traffic including prohibiting eastbound SR5 traffic from making a left turn onto northbound SR1. I would encourage residents of the Milton area to attend this workshop.

3. Dewey Beach Water

I have received notification from Delaware Health and Social Services that they have completed an in-depth review of the Dewey Beach Water District. One of the requirements of the Safe Drinking Water Act is that all community drinking water supplies must have a sanitary survey, which includes an inspection of the complete system and sampling for chemical contaminants and bacteriological analysis. During Health and Social Services' sanitary survey, they found no visible defects in the system. I would like to compliment Kay Dewson and Paul Bradley for this excellent report.

Mobile
Command
Post
Bids

Mr. Thomas, Director of Emergency Operations, discussed the bids received for the Emergency Operations Center, Mobile Command Post, as follows:

Matthews Specialty Vehicles Archdale, North Carolina	\$184,752.00
The Mattman Company Escondido, California	\$230,450.00

Mr. Thomas reported that, through the Rural Development Loan, \$185,000.00 has been budgeted for this project.

The Emergency Operations Center will review the two bids submitted and report back to Council with a recommendation on February 9, 1999.

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 HR-1/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 23.01 ACRES, MORE OR LESS" (Change of Zone No. 1374) filed on behalf of C.L.H. Design. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance

Mr. Dukes 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

Proposed Ordinance (con't) OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.90 ACRES, MORE OR LESS" (Change of Zone No. 1375) filed on behalf of C.L.H. Design. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Dukes 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.72 ACRES, MORE OR LESS" (Change of Zone No. 1376) filed on behalf of C.L.H. Design. The Proposed Ordinance will be advertised for Public Hearing.

DelDOT's Access Management Plan Mr. Phillips referred to the letter in correspondence from S. Bradley Connor, the Mayor of the Town of Dagsboro, asking Sussex County Council to take a position against the Delaware Department of Transportation's (DelDOT's) Access Management Plan. Mr. Phillips recommended that Council support the Mayor in his opposition to the Plan. Mr. Dukes advised that last year, letters were sent to DelDOT, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Senators and Representatives representing Sussex County, voicing the Council's concerns with the Access Management Plan. Mr. Jones reported that he will be meeting with Secretary Anne Canby (DelDOT) at which time he will articulate the Mayor's opposition to the Plan and the County's concerns regarding the Plan.

Mr. Phillips expressed his opinion that he felt it is important to re-emphasize the County's concerns with the Plan through written correspondence.

M 065 99 A Motion was made by Mr. Phillips, seconded by Mr. Dukes, Authorize to authorize the President of the Sussex County Council Letters to write a letter to the Senate and House of Representatives in in opposition to the Access Management Plan and, further, Opposition of that Mr. Jones present the letter to Secretary Anne Canby Access at their meeting scheduled for Friday, February 5, 1999.

Management Motion Failed: 2 Yea, 1 Nay, 2 Abstentions.

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

M 066 99 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, Authorize to authorize the President of the Sussex County Council Letters to send a letter to the Senate and House of Representatives stating that the County Council has concerns with some of

M 066 99 the regulations in the Access Management Plan and, further, Authorize that Mr. Jones present the letter to Secretary Anne Canby Letters at their meeting scheduled for Friday, February 5, 1999. to

Express Motion Adopted: 5 Yea.

Concerns with Plan (con't) Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea

M 067 99 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Council- give \$500.00 from Mr. Cole's Councilmanic Account to the manic Indian River Volleyball Boosters to purchase equipment. Grant

Motion Adopted: 5 Yea.

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

State- Mr. Dukes distributed a Public Statement/Press Release ment summarizing his opinion on taxes in Sussex County.

M 068 99 A Motion was made by Mr. Rogers, seconded by Mr. Cole, to Council- give \$600.00 from Mr. Rogers' Councilmanic Account to the manic City of Lewes to help defray the Mayor's expenses at the Grant Congressional City Conference to be held in Washington, D.C.

Motion Adopted: 5 Yea.

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

M 069 99 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Council- give \$200.00 from Mr. Jones' Councilmanic Account to the manic Milford Historical Society for repairs to the Parson Thorne Grant Mansion.

Motion Adopted: 5 Yea.

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

PATS/ Mr. Stickels, County Administrator, advised Council that Decrane PATS has been sold to Decrane. Both loans, taken out by PATS, have been repaid.

M 070 99 At 11:50 a.m., a Motion was made by Mr. Rogers, seconded Recess by Mr. Cole, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Jones called Council back into session at 1:35 p.m.

Public Hearing (C/U No. 1266) 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 PRIVATE SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 57.14 ACRES, MORE OR LESS" (Conditional Use No. 1266) filed on behalf of Eagle's Nest Fellowship Church, Inc. There were no public comments and the Public Hearing was closed.

M 071 99 Adopt Ordinance No. 1285 (C/U No. 1266) A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1285 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRIVATE SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 57.14 ACRES, MORE OR LESS" (Conditional Use No. 1266) filed on behalf of Eagle's Nest Fellowship Church, Inc., with the following condition:

1. 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 applicants established by substantial evidence that the proposed use will help serve the educational needs and provide educational opportunities in the Milton/Lincoln/Milford area for secondary school students without any impact of any sort on the character of the neighborhood, property values therein, traffic or the environment.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing/Off-Street Parking A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO OFF-STREET PARKING FOR MULTI-FAMILY RESIDENTIAL DWELLINGS AND TOWNHOUSES". It was noted that Mr. Cole had made the recommendation that

Public
Hearing
(con't)

this Proposed Ordinance be adopted with an amendment that "Under-residence, under-unit or stand-alone garage parking shall not be considered in the calculation of parking spaces per dwelling unit.". The Planning and Zoning Commission has recommended adoption of the Proposed Ordinance without the amendment. This Proposed Ordinance will increase required parking spaces for multi-family dwellings and townhouses from two per family unit to three per family unit. After considerable discussion, the Public Hearing was closed.

M 072 99 A Motion was made by Mr. Cole, seconded by Rogers, to Adopt
Adopt Ordinance No. 1286 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS
RELATING TO OFF-STREET PARKING FOR MULTI-FAMILY RESIDENTIAL
Dwellings AND TOWNHOUSES", without the amendment, as recom-
mended by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Abstention.

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

Public
Hearing/
Aqua-
culture

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO AQUACULTURE". There were no public comments and the Public Hearing was closed.

M 073 99 A Motion was made by Mr. Rogers, seconded by Mr. Cole, to
Adopt Ordinance No. 1287 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE
CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE
PROVISIONS RELATING TO AQUACULTURE".

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/
Large
Scale
Com-
mercial
Uses

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO DEVELOPMENT IN THE C-1 GENERAL COMMERCIAL ZONING DISTRICT, AND THE B-1 NEIGHBORHOOD BUSINESS ZONING DISTRICT, TO ADD A NEW PROVISION RELATING TO LARGE SCALE COMMERCIAL USES, TO AMEND THE PROVISIONS RELATING TO OFF-STREET PARKING AND OFF-STREET LOADING, TO AMEND SETBACK PROVISIONS, AND TO BRING OTHER PROVISIONS OF CHAPTER 115 IN CONFORMITY WITH THESE AMENDMENTS". This application has been deferred by the Planning and Zoning Commission. After considerable discussion, action was deferred and the Public Hearing was recessed.

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M 074 99 A Motion was made by Mr. Dukes, seconded by Mr. Phillips,
Adjourn to adjourn at 3:07 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council

PUBLIC WORKSHOP

FEBRUARY 4, 1999

**SUSSEX COUNTY COUNCIL
PLANNING AND ZONING COMMISSION
BOARD OF ADJUSTMENT**

A Public Workshop of the Sussex County Council, Planning and Zoning Commission, and the Board of Adjustment was held Thursday, February 4, 1999, at 7:00 p.m., in the Sussex County West Complex Building, Georgetown, Delaware. A dinner preceded the Public Workshop at 6:30 p.m.

The following issues were discussed:

1. **WALL SIGNS & BILLBOARDS**

These items were placed on the agenda by a member of the Board of Adjustment because many wall sign and billboard variance requests have been received recently.

Wall signs

Wall signs are permitted in commercial/retail establishments.

Wall signs are limited to 100 square feet.

One major question regarding wall signs pertains to an application that was received containing eight variances in one application, all in the same shopping complex but different stores. The question is whether each sign is considered a separate variance or can they all be put together since they are in the same project?

Mr. Lank suggested that consideration be given to allowing 100 square feet of sign per store.

Billboards

Billboards are permitted by special exception to the Board of Adjustment and require a Public Hearing. Billboards are allowed to be 300 square feet per side and they are required to be 300 feet from church, school, and other public places. The required setback for billboards is 25 feet (setback required by State law is 25 feet).

The Board of Adjustment is questioning whether we are getting too many billboards in the County.

Mr. Rogers reported that sign companies have two sets of ordinances to comply with; the State of Delaware's and the County's. New Castle County and Kent County allow 600 square feet per billboard; Sussex County allows 300 square feet.

Mr. Rogers commended the Planning and Zoning Department for their enforcement of sign regulations.

Mr. Rogers noted that there aren't many more places left for billboards to be placed unless a change of zone is granted due to the fact that the State is not allowing billboards in certain areas of the County; the State will not grant permits for billboards on many secondary/rural roads. Also, agricultural preservation lands cannot have billboards on them.

Mr. Cole recommended that the setbacks for billboards be increased to 40 feet as he feels billboards should be set back in line with buildings.

Action: These issues will be taken under consideration.

2. COMMERCIAL SETBACK REQUIREMENTS

Placed on the agenda by a member of the Board of Adjustment because the Board receives a lot of applications for setback variances in the commercial zone; front setbacks is the biggest issue, i.e. boat sales, truck cap sales, used car sales, shed sales, etc.

Currently a 25 foot setback is required; however, applicants want a 0 foot to 10 foot setback and many do not comply with the 25 foot setback.

Mr. Cole recommended that the Board hold firm with the 25 foot setback requirement.

Action: Mr. Jones asked the members of the Board of Adjustment to devise a "game plan" and make a recommendation to Council.

3. MINOR AND MAJOR SUBDIVISION REVISIONS AND ALTERATIONS

During a Public Hearing on an application for a major subdivision, a legal question was raised regarding the wording in the County's subdivision ordinance.

Mr. Lank reported that a Proposed Ordinance has already been drafted amending Chapter 99, Section 13, to correct this problem. The draft ordinance corrects a grammatical error and deletes the requirements that all owners in the previously subdivided and recorded plots consent to proposed alterations or changes.

Action: This draft ordinance will be presented at the February 9, 1999 County Council meeting for introduction.

During the discussion on this issue, Mr. Bayard, County Attorney, made the recommendation that the County's (change of zone, conditional use, and subdivision) application form be amended to document that there are no restrictive covenants on a property.

4. **INTERGOVERNMENTAL COORDINATION**

This is an issue that was discussed during the Land Use Plan process. Over the last several years, the Planning and Zoning Department has been notifying the municipalities of any project within a mile or 2 miles of that municipality (change of zones, conditional uses and subdivisions). Also notified is the State Planning Office and they send out LUPA requests for information on all rezonings, conditional uses, and ordinances.

The Land Use Plan suggests that the County consider intergovernmental coordination by ordinance so that it is required.

The Land Use Plan Advisory Committee has recommended that the County continue to do this by way of policy.

Mr. Bayard, County Attorney, recommended that the County continue with the policy instead of adopting an ordinance.

Action: Mr. Stickels and Mr. Lank will draft an Intergovernmental Coordination Policy.

Mr. Cole suggested that the 200 feet notification area is not enough. Mr. Lank stated that 300 feet would be too much and would result in the County sending out too many notifications. It was noted that these notifications are not a requirement but a courtesy that the Planning and Zoning Department extends to area property owners.

5. AGRICULTURAL RESIDENTIAL DISTRICT - COMMERCIAL FEED LOT & STRUCTURES

Placed on the agenda as a result of a situation where an individual was raising eight hogs and area residents complained.

Suggestions were made to require a certain amount of acreage if livestock is to be kept on the property instead of setting stipulations for the number of certain types of livestock permitted.

Mr. Dukes noted that this resulted as a dispute between two neighbors and an ordinance should not be drafted as a result of one complaint.

Action: Council will discuss this issue and seek suggestions during an upcoming meeting with representatives of the University of Delaware Extension Office.

6. CONSERVATION ZONE

In 1997, Public Hearings were held on ordinances relating to conservation zone amendments; these proposed ordinances were rejected by the Planning and Zoning Commission and were tabled by the County Council.

Mr. Lank advised that he met with the State of Delaware Department of Natural Resources and Environmental Control, Wetlands and Subaqueous Lands Section, to try to establish an easier method of mapping the conservation zone. An idea of referring to tidal water bodies was discussed; however, they were not receptive to that idea.

Mr. Lank made the suggestion to strike the conservation zone as it is written and amend it to provide for the flood plains being the boundary of the conservation zone.

Action: Mr. Lank was instructed to put his suggestions in writing and submit it to the three groups for comment.

7. SUBDIVISION ORDINANCE

One problem discussed was base requirements for streets.

Mr. Lank reported that it has been discussed over the years, of coming up with a regulation that would provide for a lesser street construction for subdivisions of a lesser number.

Mr. Lank noted that there are a lot of housekeeping amendments that need to be made to the Subdivision Ordinance.

Mr. Lank discussed fees charged by the County for applications for subdivisions -- \$100.00 to apply and \$2.00 per lot for final subdivision. It was noted that these fees do not cover costs and the fees need to be increased.

Action: Mr. Lank was instructed to obtain New Castle and Kent Counties' fee structure and report back to the Commission and the County Council.

8. **RPC RESIDENTIAL PLANNED COMMUNITIES**

Concern has been expressed by the Committee that a lot of applications for RPC's are being received and they lack design and ingenuity.

It was discussed that the County needs to come up with a percentage for required open space. In addition, the term "open space" needs to be defined. It should be stated in an ordinance what can and cannot be used in the open space calculation.

Action: The Planning and Zoning Commission will discuss this issue and prepare ordinance proposals.

TAC ADVISORY COMMITTEE

Mr. Stickels and Mr. Lank have met with the towns and several of the towns want to know if there is a mechanism for the towns to utilize the County's TAC Committee for purpose of review. The towns do not have the staff or the expertise to review large RPC applications.

Action: It was the consensus of the group that the County offer this service to the towns.

It was discussed that applicants are not attending TAC meetings. It was noted that many State agencies do not attend TAC meetings and it does not seem fair to require the applicant to attend if State agencies are not attending.

It was recommended that RPC's should go to the TAC Advisory Committee before coming to Council. This would require an ordinance amendment.

Action: Mr. Lank was instructed to draft an ordinance requiring RPC's to go the TAC Advisory Committee prior to coming to Council.

10. TRADING DEVELOPMENT RIGHTS

Mr. Phillips asked that this Committee be reactivated.

This Committee has met once previously and a report was prepared by Shane Abbott. Council took the report under advisement.

Action: Mr. Abbott was instructed to schedule a second meeting as soon as possible.

11. MOBILE HOME PLACEMENT/MEDICAL HARDSHIP

The current policy is that the applicant goes before the Board of Adjustment; the fee is \$150.00 and an approval is valid for two years. Mr. Jones stated that this is something that needs to be reviewed. Mr. Jones believes the two year period is too short and does not think they should have to come back to the Board for an extension.

It was recommended that consideration be given to authorizing the Director of Planning and Zoning to grant two one-year extensions (for the same hardship).

It was noted that enforcement should be a priority.

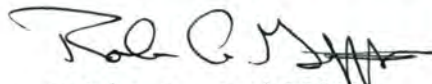
12. PERMITTING A PARCEL TO BE SUBDIVIDED FOR FAMILY MEMBER

Mr. Dukes stated that he has heard a few complaints since the adoption of the Land Use Plan that a landowner wants to give their child/grandchild a lot on their farm for a single-wide mobile home. Mr. Dukes asked if there was any interest in permitting this for a period of approximately five years until a new home is built.

There was no consensus in support of this proposal.

It was the consensus of the group that a Public Workshop be scheduled every four months. The meeting concluded at 9:35 p.m.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council