

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 6, 2001

Call to Order            The regular meeting of the Sussex County Council was held Tuesday, February 6, 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.

M 053 01            A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend Approve Agenda        the Agenda by deleting "Michael A. Izzo, County Engineer, 1. West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, A. Holland Glade – Change Order No. 4"; 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 054 01            A Motion was made by Mr. Jones, seconded by Mr. Rogers, to amend Amend Minutes        the minutes of the January 9, 2001, meeting, by making the following insertion on Page 7 at No. 2:

2.    The existing wetlands shall not be disturbed, except for removal of fallen trees, stumps, branches, and clean-out of any storm drains.

Motion Adopted: 5 Yea.

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

M 055 01  
Approve  
Minutes

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of the January 23, 2001, meeting, as distributed.

Motion Adopted: 5 Yea.

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

Corre-  
spondence

Mr. Bayard read the following correspondence:

DEPARTMENT OF THE ARMY, 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. (Applicant: Karl A. Schopfer; Waterway: Love Creek)

KATRINA A. FURLONG, DIRECTOR, COMMUNITY SERVICES, CASA SAN FRANCISCO, MILTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

M 056 01  
Adopt  
Procla-  
mation

A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt the Proclamation entitled "PROCLAIMING THE MONTH OF FEBRUARY AS 'AMERICAN HEART MONTH'".

Motion Adopted: 5 Yea.

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

American  
Heart  
Month/  
Operation  
Heartbeat

Ms. Smith, Chairman of Operation Heartbeat for Sussex County, was in attendance and thanked the Council for supporting the American Heart Association's efforts to increase the awareness of the need for a strong chain of survival in Sussex County and to improve the sudden cardiac arrest survival rate through the Operation Heartbeat initiative.

Route  
One  
Grid  
Study/  
MOA

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. Ms. Trish Faust, Senior Transportation Planner, and Mr. Joe Cantalupo, Assistant Director of Planning, were in attendance to participate in the discussion. This MOA was first presented to Council on January 2nd and discussed again on January 16th and January 30th.

Route One  
Grid  
Study  
(continued)

Mr. Stickels distributed the following: (1) a copy of the Memorandum of Agreement, as amended, (2) a copy of Mr. Rogers' letter and DelDOT's response, and (3) a copy of concerns expressed by Mr. Phillips and DelDOT's response.

Mr. Phillips questioned whether this document is primarily intended to give DelDOT the "green light" to study the grid concept. Mr. Cantalupo responded that it is for the County and the Department to start the study.

Mr. Phillips stated that he is uncomfortable with a lot of the language in the Memorandum; that it basically outlines parameters that he is not sure the Council wants to be encumbered by. Mr. Phillips distributed a Proposed Resolution which he believes will accomplish the same purpose without encumbering the Council with the text of the Memorandum and the questions that continue to surround it, as follows:

Proposed  
Resolution  
Relating  
to Route  
One Grid  
Study

WHEREAS, the Sussex County Council recognizes the need for better local transportation infrastructure in the Lewes/Rehoboth area; and

WHEREAS, the Sussex County Council agrees that the Delaware Department of Transportation is responsible for infrastructure improvements; and

WHEREAS, the Sussex County Council believes that the Grid Concept of new and interconnecting roads in the Lewes/Rehoboth area will be a positive step toward alleviating traffic congestion in this area;

NOW, THEREFORE, the Sussex County Council encourages the Department of Transportation and the State of Delaware to allocate resources to study the creation of an efficient transportation system in order to accommodate current and future growth in the Lewes/Rehoboth area and to cooperate with the Sussex County Council in the formulation of this plan.

Mr. Phillips expressed that the Proposed Resolution gives DelDOT the "green light" they are asking for; it makes it clear that this is a joint effort and that the Department and the County are to work in cooperation with one another.

Mr. Jones expressed interest in meeting with the Secretary of Transportation of DelDOT to discuss the Agreement and get his vision/game plan for the Route One corridor. Mr. Rogers agreed, stating that he would like to meet with the Secretary and debate some of the issues in the Memorandum.

M 057 01  
Adopt  
MOA

A Motion was made by Mr. Cole, seconded by Mr. Jones, to adopt the Memorandum of Agreement and the Proposed Resolution.

M 057 01  
(continued)

Motion Adopted: 4 Nay, 1 Yea.

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

M 058 01  
Resolution

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt the Proposed Resolution.

Recommendation  
Relating  
to Proposed  
Resolution

Mr. Bayard noted that Ms. Faust and Mr. Cantalupo have not had the opportunity to review the Proposed Resolution as they received it on this date, for the first time. Mr. Bayard suggested that they be given the opportunity to review it with Secretary Hayward prior to discussing it further with Council.

Withdrawn

Mr. Phillips withdrew his Motion.

Georgetown  
Library  
Funding  
Request

Mrs. Williams, President of the Friends of the Georgetown Public Library, spoke about the proposed new library for Georgetown. Mrs. Williams stated that the Georgetown Public Library is currently housed in a 2,400 square foot building with a roof that leaks and floors that cannot support the weight of the books. She noted that the present library building's size and structural inadequacies seriously limit the types of programs that can be offered and the number of books that can be shelved. Mrs. Williams advised Council that a needs assessment was completed to determine the appropriate size and nature of a new building. The State has approved the assessment plan and funded half of the \$4.6 million cost through the Delaware Library Assistance Program. Land has been purchased on West Pine Street and an architect's plans have been approved. The State's portion (\$2.3 million) is sitting in escrow, waiting for the Friends and the Board of Commissioners to raise another \$2.3 million to match the funding. The Board of Commissioners is applying for grants from foundations. The Friends have been actively raising funds from the Georgetown community since September and have received \$55,000 in contributions by private citizens. Mrs. Williams asked for the Council's consideration in appropriating funding for the Georgetown Library Building Fund.

Mr. Dukes commented that there were discussions several years ago that there was not a need for two libraries in Georgetown; that the Town of Georgetown has the library at the Delaware Technical & Community College campus. Mrs. Williams responded that the College's library does not suit the needs of the young people in the community.

Councilmembers expressed concern that providing funding for one library's expansion project would obligate the Council to provide funding for all the libraries' expansion projects.

Funding  
Request  
(continued)

Mr. Stickels noted that the County's Mobile Home Placement Tax generates approximately \$28,000 - \$30,000 annually for the independent libraries for capital needs. Mr. Stickels suggested that the Georgetown Public Library's annual allocation could support a loan which could possibly allow the Library to borrow the amount needed. Mr. Stickels and Mr. Baker will discuss this further with the Board of Directors during the Fiscal 2002 Budget Hearing.

Small  
Business  
Develop-  
ment  
Center

Mr. Clinton Tymes, State Director, Delaware Small Business Development Center (DSBDC), was in attendance to talk about the Center's Program and to ask for the Council's continued support. In Sussex County, the Small Business Development Center Program is hosted by Delaware Technical & Community College. Mr. Tymes introduced Mr. William Pfaff, Director of the Delaware Small Business Development Center Program in Sussex County; and provided information about the activities in Sussex County, the services that the SBDC performs, and their role in the economic development within Sussex County.

Mr. Tymes also reported on the Delaware Diamond Awards. The Delaware Diamond Awards were created by the DSBDC Network to showcase business excellence in Delaware. The SBDC center directors from each of Delaware's three counties nominated a client who exemplifies the entrepreneurial spirit as measured by their ability to thrive against the odds that face all small business owners. The Sussex County winner was Rachel Hughes and Brian Linzey of Rehoboth Sport & Kite Co. of Rehoboth Beach.

The County Council presented to Mr. Tymes and Mr. Pfaff a check in the amount of \$5,000 representing a grant for the Delaware Small Business Development Center Program in Sussex County.

Adminis-  
trator's  
Report

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

1. Delaware Department of Transportation (DelDOT) – Council on Transportation

I have been notified by DelDOT that the Council on Transportation will be holding a public workshop on February 13 at 6:00 p.m. at the DelDOT office on Route 113, Dover, Delaware, in the Executive Conference Room. The purpose of the workshop will be to review the Capital Improvement Program, 2002 through 2007, for all three counties. A second meeting will be held on February 20 at 6:00 p.m. at the same location, at which time it is my understanding the Council will be voting on the spending plan. Anyone having additional questions should call the Department of Transportation at 302-760-2303.

Adminis-  
trator's  
Report  
(continued)

2. Department of Natural Resources and Environmental Control (DNREC) – Water Utility Legal Notice

I have received notification from DNREC that an application has been filed on behalf of the City of Milford for a Certificate of Public Convenience and Necessity to provide public water service to those properties within the limits of the City. The properties are located in both Kent and Sussex Counties.

The application may be inspected by appointment at the offices of the Department of Natural Resources and Environmental Control, Suite 200, 5 East Reed Street, Dover, Delaware 19901. For more information or an appointment to inspect the application, please contact A. J. Farling at 302-739-5081.

A public hearing will not be held unless Alan Farling, on behalf of the Secretary of the DNREC, receives a request for such a hearing no later than February 21, 2001. A request for a hearing shall be in writing and must exhibit a familiarity with the application and a reasoned statement of the certificate's probable impact. A request to opt-out of the proposed water service territory must be submitted to Alan Farling at the above address no later than March 7, 2001.

I know of no reason why the Sussex County Council should oppose this application.

Bayville  
Shore

Mr. Green, Director of Utility Construction, discussed the wastewater facilities to be constructed in Bayville Shore – Phase I, located in the Fenwick Island Sanitary Sewer District.

M 059 01  
Execute  
Agreements/  
Bayville  
Shore

A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement, between Sussex County Council and Bayville Shore Associates, LLC, for wastewater facilities to be constructed in Bayville Shore, Phase I (off-site), located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Abstention.

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

C/U  
No. 1380

Conditional Use No. 1380 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A USED CAR SALES FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.38 ACRES, MORE OR LESS" filed on behalf of Michael G. Reynolds was discussed. The Planning and Zoning Commission held a Public Hearing on this application on January 11, 2001, at which time they recommended that the application be denied. The Sussex County Council held a Public Hearing on this application on January 30, 2001, at which time they closed the Public Hearing and deferred action.

M 060 01  
Adopt  
Ordinance  
No. 1431

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1431 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A USED CAR SALES FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.38 ACRES, MORE OR LESS" (Conditional Use No. 1380) filed on behalf of Michael G. Reynolds, with the following stipulations:

- (1) No more than ten (10) vehicles for sale shall be on the site at any one time.
- (2) Business hours shall be from 9:00 a.m. to 7:00 p.m. Monday through Saturday. There shall be no Sunday business hours.
- (3) The driveway and parking lot for display of the vehicles shall be improved with a minimum surface of crusher-run.
- (4) There shall be no auto repairs performed on site, except for the washing and detailing of the vehicles.
- (5) One (1) unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.
- (6) 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: 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 is located in a Development District, adjoins a 7-11 store, and will have no adverse traffic impact, while serving the convenience of area residents.
2. With the conditions imposed, there will be no other adverse impacts of any sort.

C/U  
No. 1381

Conditional Use No. 1381 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 783 (USED CAR SALES) BY ADDING CAMPER AND MOBILE HOME SALES, AND DISMANTLING OF MOBILE HOMES AND CAMPERS, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 5.28 ACRES, MORE OR LESS, filed on behalf of Delmarva Consignment Sales, was discussed. The Planning and Zoning Commission held a Public Hearing on this application on January 11, 2001; on January 25, 2001, the Commission recommended that the application be denied. The Sussex County Council held a Public Hearing on this application on January 30, 2001 at which time they closed the Public Hearing and deferred action.

M 061 01  
Adopt  
Ordinance  
No. 1432

A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt Ordinance No. 1432 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AMEND CONDITIONAL USE NO. 783 (USED CAR SALES) BY ADDING CAMPER AND MOBILE HOME SALES, AND DISMANTLING OF MOBILE HOMES AND CAMPERS, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 5.28 ACRES, MORE OR LESS" (Conditional Use No. 1381) filed on behalf of Delmarva Consignment Sales, with the following stipulations:

1. All unlicensed vehicles shall be removed from the site or located within existing building on the site within 90 days of being parked on the site.
2. No more than eight (8) manufactured homes, travel trailers, or campers shall be stored on the site for dismantling at any time.
3. An eight (8) foot high solid fence or chain-linked fence with slats shall be located across the property to the rear of the existing buildings.

M 061 01  
(continued)

4. All dismantling of manufactured homes, travel trailers, or campers, shall be to the rear of the fence.
5. There shall be no outside storage of dismantled materials, i.e. appliances, windows, doors, and insulation. All dismantled items shall be stored within existing buildings on the site.
6. Business hours shall be from 7:30 a.m. to 5:30 p.m., Monday through Saturday, with no Sunday hours.
7. One unlighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.
8. No more than five (5) mobile homes, campers, or travel trailers, shall be displayed on the site for sale at any one time.
9. No more than ten (10) automotive vehicles shall be displayed on the site for sale at any one time.
10. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all agency approvals.

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 help serve a County-wide need to provide facilities for dismantling and disposing of junked manufactured housing, travel trailers, and campers, to be located on a site already subject to an active conditional use (Conditional Use No. 783 – Used Car Sales).
2. With the conditions imposed, the proposed use will have no adverse impact of any sort, while consistent with the purposes and goals of the Comprehensive Land Use Plan.

C/Z  
No. 1393

Change of Zone No. 1393 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 –

C/Z  
No. 1393  
(continued)

RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 887.03 ACRES, MORE OR LESS” filed on behalf of CMF Bayside, L.L.C. was discussed. The Planning and Zoning Commission held a Public Hearing on this application on March 16, 2000; at a later meeting, on April 13, 2000, the Commission recommended that the application be approved subject to twenty-one (21) stipulations. The County Council held a Public Hearing on this application on April 4, 2000 at which time the Public Hearing was closed and action was deferred; the record was left open for additional information from DelDOT and any written comments for a period of one week – until the close of business on April 11, 2000.

Mr. Dukes discussed (1) calculations relating to net acreage and the allowable number of homes on the tract and (2) the 1975 land use plan that recommended a village concept for growth in the County. Mr. Cole expressed concern about basing a decision on a present development proposal on the 1975 land use plan. Mr. Cole stated that the size of this proposed development is the size of a town/city – the same size as the City of Milford and; therefore, the village concept would not work.

Mr. Lank, Director of Planning and Zoning, read twenty-five (25) proposed stipulations and Council considered each stipulation individually, amending several of the stipulations.

M 062 01  
(Failed) A Motion was made by Mr. Phillips that the maximum number of residential units be 2,200. The Motion died for the lack of a second.

M 063 01  
(Failed) A Motion was made by Mr. Cole that the maximum number of residential units be 1,200 and the maximum square footage of retail/office space be 120,000 square feet. The motion died for the lack of a second.

M 064 01  
(Failed) A Motion was made by Mr. Cole that the maximum number of residential units be 1,700 and the maximum square footage of retail/office space be 150,000 square feet. The motion died for the lack of a second.

M 065 01  
(Failed) A Motion was made by Mr. Cole that the maximum number of residential units be 1,700 and the maximum square footage of retail/office space be 170,000 square feet. The motion died for the lack of a second.

M 066 01  
(Failed) A Motion was made by Mr. Rogers that the maximum number of residential units be 1,800 and the maximum square footage of retail/office space be 180,000 square feet. The motion died for the lack of a second.

M 067 01  
(Failed)

A Motion was made by Mr. Phillips that the maximum number of residential units be 2,000 and the maximum square footage of retail/office space be 200,000 square feet. The motion died for the lack of a second.

M 068 01  
Adopt  
Maximum  
Number of  
Units/  
Square  
Footage

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the maximum number of residential units be 1,700 units and the maximum square footage of retail/office space be 170,000 square feet.

Motion Adopted: 3 Yea, 2 Nay.

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

M 069 01  
Adopt  
Ordinance  
No. 1433

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1433 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 887.03 ACRES, MORE OR LESS" (Change of Zone No. 1393) filed on behalf of CMF Bayside, L.L.C., with the following stipulations:

1. The maximum number of residential units shall not exceed 1,700.
2. The developer may provide a minimum of 104 assisted living units. Reduction of any type of residential units will be at the discretion of the applicant.
3. The maximum square footage of retail/office space shall be 170,000 square feet. The developer shall provide a medical facility.
4. Residential certificates of occupancy shall not exceed 200 annually on a cumulative basis.
5. Site plan review for each phase of development shall be reviewed and approved by the Sussex County Planning & Zoning Commission.
6. All entrances, intersections, and roadway improvements required by DelDOT shall be completed by the applicant in accordance with any further modifications required by DelDOT, once 200 certificates of occupancy have been issued.

M 069 01  
(continued)

7. The applicant shall establish a 60-foot highway corridor overlay zone setback along the property fronting Route 54.
8. Recreational facilities, i.e. golf, tennis courts, swimming pools, etc., shall be constructed to coincide with construction phases scheduled and subject to review and approval by the Sussex County Planning & Zoning Commission.
9. The RPC shall be served by the Sussex County South Coastal Regional Wastewater Facility per Sussex County Engineering Department regulations and specifications.
10. The RPC shall be served by a central water system providing drinking water and fire protection per applicable regulations and approval of the Department of Natural Resources, the State Fire Marshal's Office, the Public Service Commission, and the State of Delaware Office of Public Health.
11. Stormwater management and erosion and sediment control shall equal or exceed all applicable State and County regulations.
12. The applicant shall establish "best management practices" in regard to golf course maintenance and protection of non-tidal wetlands. The operator of the golf course shall file a Nutrient Management Program with the appropriate State agency.
13. The applicant shall coordinate with the Center for the Inland Bays the development of a public Inland Bay Nature Trail and Observatory.
14. State and Federal wetlands shall be maintained as non-disturbance areas, except for disturbance authorized by a valid Federal or State permit. There shall be no construction in any wetlands without valid permits.
15. The applicant shall provide, at no cost, a parcel of land appropriate for use by the Delaware State Police and a parcel of land appropriate for use by the Roxana Volunteer Fire Company when deemed appropriate by said organizations. The location and size of said parcels shall be as mutually agreed upon by the parties involved.
16. The applicant shall provide shuttle service to the residents of Americana Bayside, as needed, to the beaches for recreation and shopping. The applicant shall plan to educate and encourage the use of this service in regard to decreasing traffic on Route 54.

M 069 01  
(continued)

17. The applicant shall provide adequate security for development. Security should include a 24-hour emergency center, sufficient staff and vehicles, with increasing staff to coincide with increased occupants for the project.
18. The applicant shall coordinate with the State and County emergency planning offices in development and implementation of an emergency evacuation procedure for the development which will be incorporated into the restrictions of the development and may require early mandatory evacuation, if needed, by said offices.
19. The RPC shall not contain a marina, individual boat dock facilities, or boat launching facilities other than a community water taxi service facility. Non-motorized watercraft shall be permitted at the boat launching facility of the community water taxi service.
20. No site preparation, site disturbance, back excavation, or other construction shall be commenced until all permits required by other laws, ordinances, rules, and regulations shall have been issued and the approval of the final site plan is recorded.
21. No existing State roads in the development shall be vacated.
22. Public access shall be permitted at the end of State Route 394. Access shall include sufficient parking for eight vehicles.
23. Assisted living units may be located on the north side of Route 54, west of Route 20.
24. All commercial activities shall be limited to the south side of Route 54, with no direct access to Route 54. Entrance to the commercial area shall be a minimum of 300 feet from Route 54.

Motion Adopted: 4 Yea, 1 Nay.

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

Findings  
of Fact

The minutes and recommendation of the Planning and Zoning Commission are incorporated by reference into the Council's record and decision.

The Council found that the requested amendment to a Medium Density (MR) – Residential Planned Community (RPC) zoning designation is appropriate legislation in that it adequately and properly promotes the health, safety, morale, morals, convenience, order, prosperity and welfare of present and future residents of the County and is in full accordance

Findings  
of Fact  
(continued)

with the Sussex County Comprehensive Land Use Plan. These Findings are based on testimony, exhibits and evidence presented by the applicant, agency comments and the minutes and recommendations of the Planning and Zoning Commission. Specifically, the Council finds that the MR-RPC Zoning amendment is appropriate based on the following reasons.

1. MR Zoning is appropriate for the subject lands in that the purpose of the MR zone is to provide medium density residential development in appropriate areas where central sewer and water will be available. Change of Zone No. 1393 is consistent with that purpose.
2. The RPC designation is appropriate for this parcel of land in that the purpose of an RPC is to encourage large scale development as a means to create superior living environments and the use of design ingenuity while protecting existing and future uses. Change of Zone No. 1393 is consistent with that purpose.
3. The subject property is located in an area along Route 54 that has developed with residential projects with densities similar or greater than that being requested by the applicant with several existing developments having significantly higher density. The existing developments of Swann Keys has 9 units/acres +/-, Mallard Lakes has 7 units/acres +/- and Cape Windsor has 8 units/acres +/- . The adjacent development to the east, Keen-Wik Sound, is already zoned MR-RPC. The proposed development is in character with the nature of the area.
4. The development will be served by County sewer as part of the Fenwick Island Sanitary Sewer District and sufficient treatment and transmission capacity exists. Infrastructure improvements will be the responsibility of the applicant in accordance with County Policy. The providing of central sewer will assist in protecting the environment.
5. The development will comply with all requirements of the Sussex Conservation District as to erosion and sediment control procedures.
6. The development will comply with all requirements of the Sussex County Code regarding construction standards, flood plain regulations and building codes.
7. Central water will be provided by a water utility company. Based on water being provided by a water utility company, regulated by DNREC and the Public Service Commission and a hydrology study of the area, an adequate water supply exists to serve the site without any adverse impact on the existing residential users, existing area wells or the environment.

Findings  
of Fact  
(continued)

8. The development site is in the development zone designation of the Sussex Land Use Plan Map and according to the Delaware Department of Agriculture is classified as the least suitable soil type for farmland preservation and the land's conversion to development would not adversely affect agriculture.
9. With the significance road, entrance, and intersection improvements required by DelDOT, to be constructed at the applicant's expense, no significant negative traffic impact will result as compared to existing conditions. These improvements are as set forth in the Traffic Impact Study and DelDOT's letters of September 30, 1999 and January 18, 2000. The required improvements are appropriate and adequate to maintain traffic at an acceptable level of service in conformity with County and DelDOT standards.
10. Emergency Evacuation along Route 54 will not be negatively affected as a result of the Developer voluntarily agreeing to an early evacuation plan as determined by County and State Emergency agencies and by limiting the project's evacuation to Route 54 west thereby not burdening Route 20.
11. By providing on site retail and service areas, vehicular traffic will be further reduced and the general convenience of area residents will be served.
12. The development will provide substantial recreational opportunities on site including swimming pools, tennis courts, parks, a fitness center, bike and walking trails and an 18-hole championship public golf course.
13. The development incorporates environmentally sensitive design criteria to minimize its impact on the environment. As set forth in applicant's Comprehensive Conservation Management Plan (CCMP) analysis, the proposed development will significantly reduce nitrogen and phosphorus run off as compared to current agricultural uses. The development will comply with all State and Federal Regulations, will provide water quality enhancement techniques, large areas of open space, clustered development to reduce infrastructure needs, vegetative buffer strips, a comprehensive storm water management system, the use of "best management" practices to protect the natural environment, and preservation of substantial areas of wetlands in a natural state.
14. No marina, boat dock or boat launching facilities will exist (except for a water taxi and non-motorized craft) thereby protecting the inland bays from additional use and possible degradation.

Findings  
of Fact  
(continued)

15. Fire and police protection are available from the Roxana Volunteer Fire Company and Delaware State Police and the applicant has offered an appropriate location on site for future fire and police substations to serve the development and the area in general.
16. Adequate utility services, medical facilities, and shopping areas will be available for the development and area residents.
17. The development will result in an economic benefit to the Indian River School District in the form of significant school taxes as detailed in applicant's Economic Impact Report. Similar developments in Coastal Sussex County have historically had a low number of children attending local schools thereby creating an economic benefit without off-setting expenses to the school district.
18. The County and State will receive a significant economic benefit in the form of transfer taxes, real estate taxes, sewer fees, income taxes and similar fees as detailed in applicant's Economic Impact Report.
19. The development will provide substantial benefit to the economy of Sussex County in the form of wages, materials, and construction services as set forth in applicant's Economic Impact Report.
20. The proposed MR-RPC is in accordance with the requirement and goals of the Sussex County Comprehensive Plan of 1997 in the following regards:
  - A. The development is consistent with the Plan's vision of enhancing the quality of life and providing economic and housing opportunities for all Sussex County residents.
  - B. The development is located in an area where public infrastructure is available and required improvements will be completed by the applicant.
  - C. The development will provide quality housing for future residents of Sussex County to address the need created by the significant projected population increase.
  - D. The development is consistent with the purpose of the Development District which is to concentrate development in areas where central sewer and water are planned specifically including the Inland Bays in coastal Sussex County where mixed use and higher density are encouraged.

Findings  
of Fact  
(continued)

- E. The location and density of the development will reduce pressure for development in agricultural areas and the location of the development is not an area deemed appropriate for farmland preservation.
- F. The approved residential density is less than the maximum set forth in the guidelines for density in the Comprehensive Plan which recommends 4 units per acre for single family, 10 units per acre for townhouses, and 12 units per acre for multi-family residencies.
- G. The significant road, entrance and intersection improvements required by DeIDOT at the applicant's expense will adequately provide for the traffic impact of the development on area roadways. The early evacuation procedures and evacuation route designation adequately provides for public safety in the event of emergency evacuation.
- H. The availability of central water and sewer systems assist in the protection of the natural environment.
- I. The use of environmentally sensitive development technique as set forth in the applicant's Comprehensive Conservation Management Plan (CCMP) in regards to wetlands preservation, storm water management, golf course maintenance, and the exclusion of marina or docking facilities protects the natural environment and inland bays.
- J. The development provides extensive on-site recreational opportunities for both residents of the development and the public.
- K. The development will provide a variety of housing types for the projected increasing County population as well as current residents.
- L. The development will create significant economic benefit by the creation of jobs and purchase of materials. Significant income will be generated to the local school district, County, and State as set forth in the applicant's Economic Impact Report.
- M. The development is located in the designated Development District as shown on the Comprehensive Plan's Future Land Use Map.

Findings  
of Fact  
(continued)

- N. The location of the development is in an area historically recognized and designated as appropriate for development under the 1975 South Coastal Land Use Plan, the 1988 Coastal Sussex Land Use Plan, and the current 1997 Comprehensive Land Use Plan.
21. The Council considered the comments of the Office of State Planning Coordination and agency comments submitted in reaching its decision. Based on evidence presented at the public hearings, including the State's comments, the Council determined as follows:
- A. In accordance with 9 Del.C. §6958 ( c ), Change of Zone No. 1393 is legally required to comply with and be processed under the 1997 Sussex County Comprehensive Land Use Plan.
- B. The Plan creates a Development District where County sewer is available, where growth is to be directed and concentrated in order to avoid sprawl and preserve agricultural lands and rural areas. The site of this proposal is in the Development District.
- C. The Plan also recommends higher densities in the Development District to accomplish the Plan's goals. The density of this project is significantly less than the densities deemed appropriate by the Plan.
- D. The area already has numerous residential developments of similar or greater density than Change of Zone No. 1393.
- E. Both the Plan and the State "Shaping Delaware Future Strategies Report" predict significant population increases in Sussex County over the 30 year period from 1990 to 2020. The State predicts a 56% population increase. To the extent that the character of the area will change, the County believes that the proposed RPC is a well planned development accomplishing such change in a comprehensive manner in accordance with the Plan.
- F. The County is required by law to evaluate this project under the existing 1997 Comprehensive Plan.
- G. The County finds that Change of Zone No. 1393 has been planned with sensitivity to the environmental impact of the development and, in particular, refers to the applicant's Comprehensive Conservation and Management Plan (CCMP) Assessment submitted into the record. Water access was addressed and limited by the Applicant.

Findings  
of Fact  
(continued)

- H. The site will be served by County sewer and central water provided by a water utility company. Adequate sewer transmission and treatment infrastructure exist and a Hydrology Report indicates that adequate water supply exists with no adverse impact on area residents or wells.
  - I. Emergency evacuation procedures are reasonably and safely addressed by the Applicant by submitting the development to early evacuation enforceable through deed restrictions and by the creation of a traffic evacuation plan that will control and direct the early evacuation of the development.
  - J. The development plans to have medical facilities as part of the development and will provide land to the State Police and Roxana Volunteer Fire Company for substations to service the development as well as the area in general.
  - K. The applicant will provide all entrance, intersection and roadway improvements recommended by DelDOT at the applicant's expense. With these improvements, the overall level of service will not be adversely affected. Any road realignments will be required to comply with Delaware Law.
  - L. The development will provide substantial tax revenues to the local school district to cover any additional expenses incurred by the district. Historically in Coastal Sussex County, developments create few additional students attending local schools; therefore, the economic benefit to the district should be substantial without off-setting expenses.
  - M. Significant economic benefit will accrue to the State and County through future property taxes, transfer taxes, sewer fees and other charges. Significant benefit will accrue to the economy of Sussex County in general through the creation of direct and indirect employment, the purchase of supplies and material and the secondary impact of these activities.
  - N. A comprehensively planned community such as the proposed development is far superior to the development of numerous unrelated projects on the same lands.
22. The Sussex County Planning & Zoning Commission recommended approval of Change of Zone No. 1393 subject to conditions.
23. Change of Zone No. 1393 is consistent with the goals of the Land Use Plan and does not contribute to undesirable development "sprawl" for the following reasons:

Findings  
of Fact  
(continued)

- A. The site is located in the “Development District” where the County has designated growth to occur.
- B. The developer, not the State or County, will pay for all required entrance, roadway and intersection improvements. The development can tie into future mass transit systems when deemed appropriate by the State.
- C. Past history of developments in the resort areas have demonstrated a small population of children utilizing the local school systems. The development will contribute significant school taxes to the Indian River School District resulting in significant benefit without offsetting expense.
- D. The developer, not the State or County, will pay the cost of extending central water and sewer to the site. Water will be provided by a water utility company and sewer by Sussex County. The area where the site is located is and has been designated as within the Fenwick Island Sanitary Sewer District. The providing of County sewer in this area has been planned by Sussex County and is not an unanticipated expansion of service.
- E. The developer has offered to provide land on-site to the Delaware State Police and the local volunteer fire company for future police and fire stations to serve the development and the area in general. The area where the site is located already has a significant population in need of increased services.
- F. The removal of the site from agricultural use will not adversely affect the agricultural resources of the County in that the Delaware Department of Agriculture considers the site to be of marginal agricultural importance.
- G. The development of the site will not be subsidized by public funds and the economic benefit to the public through taxes and job creation will be substantial.
- H. The development is a planned mixed-use community offering housing alternatives as well as on-site shopping and service areas, extensive and varied recreational opportunities and substantial open space. The availability of on-site facilities reduces the need for off-site vehicle trips.

Public  
Workshop/  
Tax Credit/  
Farm  
Buildings

A Public Workshop was held on the Implementation Proposal for County Property Tax Credit for Farm Buildings. The Proposal would allow farmers to file for property tax exemptions on buildings and structures that are currently and actively involved in farming operations and taxed accordingly; eligible properties would have to meet the Farmland

Public  
Workshop  
(continued)

Assessment Program qualifications. The exemption would only apply to the County portion of the property tax; the exemption would not apply to the school tax.

The procedure for implementation would require that a one-time application be filed with the County no later than June 15 preceding the annual tax billing; the County's Assessment Division would review and determine the assessment amount applicable towards credit. The annual tax bills would reflect the appropriate credit amount based on the percentage authorized by the County Council. The County Council will decide annually, as part of the budget process, whether or not to grant a County property tax credit for farm buildings and farm structures.

It was noted that Mr. Phillips initiated this Proposal based on his opinion that it would be a fair and economical way to preserve agricultural space and a way to let the farm economy hold on to a portion of its tax dollars.

Public comments were heard. Comments were heard against "targeted tax relief"; that the tax credit should be offered on all out-buildings in the County to all taxpayers in the County and not just targeted to the County's farmers. A representative of the Delaware Farm Bureau and area farmers spoke in support of the Proposal and expressed that the farm economy has been close to being in a depression for the last 3-4 years; that although the tax credit would be a small amount, any amount would benefit the farmers; and that this Program would piggy-back another Program – the Farmland Assessment Act Program. It was the consensus of Council to leave the record open until 11:00 a.m. on February 20, 2001.

M 070 01  
Council-  
manic  
Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500.00, \$100.00 from each Councilmanic Account, to the Delaware Police Chiefs' Council, Inc. for expenses to permit Mr. Martin Johnson, Local Police Coordinator, to attend the International Association of Chiefs of Police Training Conference.

Motion Adopted: 5 Yea.

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

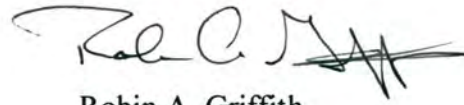
M 071 01  
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Jones, to adjourn at 1:43 p.m. Motion Adopted by Voice Vote.

Luncheon  
Meeting

The Sussex County Council attended a Partnership Program Luncheon Meeting at the Delaware Technical & Community College, Georgetown.

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