

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 13, 2001

Call to Order The regular meeting of the Sussex County Council was held Tuesday, February 13, 2001, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

Due to the absence of Mr. Dukes, Mr. Jones presided over the meeting.

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

M 072 01 A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to amend Approve Agenda the Agenda by deleting "Sussex County League of Women Voters" and "South Coastal Regional Wastewater Facility, Headworks Project – Change Order No. 2"; and to approve the Agenda, as amended.

Motion Adopted: 4 Yea, 1 Absent.

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

M 073 01 A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to approve Approve Minutes the minutes of the January 30, 2001, meeting, as distributed.

Motion Adopted: 4 Yea, 1 Absent.

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

Corre- Mr. Bayard read the following correspondence:
spondence

BETTYLOU EVANS, SUSSEX COUNTY VETERANS COUNCIL,
LAUREL, DELAWARE.
RE: Letter in appreciation of Grant.

Corre-
spondence
(continued)

ALAN SHIELDS, LAUREL, DELAWARE.
RE: Letter requesting funding for the Sussex Storm NSA Girl's Softball team.

AIR QUALITY MANAGEMENT, DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DOVER, DELAWARE.

RE: Legal Notice of Public Hearings scheduled.

Funding
Request/
Stockley
Stride

Mr. Stickels presented a funding request from The Auxiliary of Stockley Center for the 13th Annual Stockley Stride, a 5K run/walk held on the campus of the Stockley Center for the purpose of promoting recreation, wellness, and friendship between the people who live at Stockley Center and persons who live in neighboring communities who have similar goals and interests.

M 074 01
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00, \$100.00 from each Councilmanic Account, to The Auxiliary of Stockley Center for the 13th Annual Stockley Stride.

Motion Adopted: 4 Yea, 1 Absent.

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

M 075 01
Adopt
Procla-
mation

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt the Proclamation entitled "PROCLAIMING TUESDAY, FEBRUARY 13, 2001, AS "SUSSEX COUNTY MARCH OF DIMES 'WALKAMERICA' KICK-OFF DAY".

Motion Adopted: 4 Yea, 1 Absent.

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

Draft
Ordinance/
Towers and
Antennas

Mr. Stickels discussed a draft ordinance entitled "AN ORDINANCE TO AMEND THE ZONING ORDINANCE FOR SUSSEX COUNTY, DELAWARE, AS IT RELATES TO COMMERCIAL COMMUNICATIONS TOWERS AND ANTENNAS". Mr. Stickels advised that the Sussex County Planning and Zoning Commission has expressed concern relating to the number of commercial communication towers and antennas that are being located throughout the County. The Commission has discussed the issue on several occasions and asked Dennis Schrader, Assistant County Attorney, to review other jurisdictional regulations and to prepare an Ordinance relating to the Commission's concerns. The County's current Ordinance, unchanged

Draft Ordinance (continued)

since 1971, has been interpreted for years to permit private and/or commercial radio and television towers, 150 feet and less, as a permitted use.

The draft ordinance would limit commercial towers or antennas or monopoles in residential districts or within 500' of residential districts to special use exceptions to be granted by the Board of Adjustment. As a condition of application, the applicant would have to demonstrate that there is no other site available for co-location within 2 miles of the proposed site and that there is a need for the proposed tower. If granted, a tower or antenna or monopole would be subject to specific lot area, setback and site requirements. If adopted, the draft ordinance would require that the Board of Adjustment consider all tower applications.

Mr. Phillips expressed concern that if this draft ordinance is adopted, the Sussex County Council and the Planning and Zoning Commission would no longer have any jurisdiction over towers.

Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE ZONING ORDINANCE FOR SUSSEX COUNTY, DELAWARE, AS IT RELATES TO COMMERCIAL COMMUNICATIONS TOWERS AND ANTENNAS". The Proposed Ordinance will be advertised for Public Hearing.

Administrator's Report

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

1. Ellendale Community Civic Improvement Association, Inc.

The Ellendale Community Civic Improvement Association, Inc., will be holding their Third Annual Fund Raiser & Recognition Banquet on Saturday, February 17, 2001, at the Milford Senior Center, Milford, Delaware, starting at 5:00 p.m. The keynote speaker will be Juana Fuentes, Director of the State of Delaware Human Relations Commission. Anyone wishing to obtain tickets for this event should contact Harold Truxon at 422-4304.

2. Emergency Preparedness Workshop

A workshop will be held on Wednesday, March 7, 2001, at the Rehoboth Beach Convention Center on Rehoboth Avenue. The theme of this workshop will be "**The '62 Storm: Revisiting Delaware's Storm of the Century & Wind/Flood Retrofit Ideas for the Homeowner.**" The workshop will take place from 8:00 a.m. to 12:00 noon and is free and open to the public. Anyone wishing to attend should contact Rita Baty at 302-645-4346 or Nancy Lucy at 302-539-7516.

Adminis-
trator's
Report
(continued)

3. Delaware Department of Transportation Long-Range Transportation Study

Included with this report is a copy of the Delaware Department of Transportation (DelDOT) survey regarding the Sussex County Long-Range Transportation Plan. The Public Advisory Committee for the Sussex County Long-Range Transportation Plan has commissioned a random survey of residents and businesses to solicit opinions directly from the community on local transportation needs in Sussex County. It is imperative that those who receive this survey take a few minutes to fill it out and return it back to the Department of Transportation.

With continued growth, both seasonal and year-round, it is important that DelDOT get Sussex County residents' opinion on transportation improvements that they would like to see. The purpose of the survey is to gather data for long-term transportation improvements and services. The current Five-Year Capital Improvement Plan calls for the State spending \$116.3 million in road improvements. The County Council has requested projects that total \$244 million.

For any household that does not receive a survey, they may contact DelDOT at 1-800-652-5600, or visit the County's web site at www.sussexcounty.net and link on the Long-Range Transportation Plan. The survey can be filled out on-line.

For additional information, the Department of Transportation can be contacted at the Office of External Affairs at 1-800-652-5600.

DAST
Programs

Mr. Cole requested information on mass transit projects/services in the County, especially in the Coastal area. Mr. Cole stated that he is interested in how much these projects cost; how many users take advantage of the service; and whether or not the program is cost effective. Mr. Stickels suggested that a representative of DAST be invited to attend a Council meeting.

Credit
Card
Payment
Proposal

Mr. Baker discussed a proposal to permit taxpayers to pay County bills with credit cards. Currently, the County only accepts Discover Card payments. The reason for this is that Discover Card is the only credit card company that would allow the County to charge their fee over and above the County's bill amount. MasterCard and Visa would require that the County absorb that fee; this is not feasible with County property tax bills since 80 percent of the bill belongs to the school district and the school districts would not agree to absorb their share of the fee.

Mr. Baker advised that recently, major credit companies have started to allow governments to use credit cards if they use a processing company to process the credit card payment.

Credit
Card
Payment
Proposal
(continued)

Mr. Baker recommended that the County enter into an Agreement with Official Payments Corporation to process credit card payments that the County receives for property taxes, water and sewer quarterly bills and connection fees, building permits, manufactured home placement fees, and building code fees. This process will allow taxpayers to pay their bills by phone or internet. A convenience fee will be charged to the users of the system. There will be no charge to the County.

Mr. Baker noted that this proposal is just another payment option; the County will continue to offer the Discover Card payment option. The fee associated with the Discover Card payment method is slightly lower than the fee assessed by Official Payments Corporation.

Mr. Baker advised that the Memorandum of Understanding will be valid for a period of thirty days and will continue on a month to month basis until either Sussex County or Official Payments Corporation provide a 30-day written cancellation notice.

M 076 01
Authorize
Agreement
with
Official
Payments
Corporation

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, that the Sussex County Council authorizes an Agreement with Official Payments Corporation to process credit card payments.

Motion Adopted: 4 Yea, 1 Absent.

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

Holland
Glade
Contract/
West
Rehoboth/
Balancing
Change
Order

Mr. Izzo, County Engineer, presented for approval a balancing change order for the Holland Glade Contract of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Phase III. The original bid amount was \$3,948,948.02; the balancing change order is in the credit amount of \$234,272.47. Mr. Izzo reported that the bulk of the credit amount is a result of the reduction of sewer lines to properties in the area that DNREC purchased. It was determined that it was not viable to extend sewer lines to these areas, and; therefore, the amount of the construction contract was reduced. The balancing change order also includes other savings that were implemented during the course of construction.

M 077 01
Approve
Balancing
Change
Order/
Holland
Glade
Contract

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based on the recommendation of the Consulting Engineer, George, Miles & Buhr, LLP, and the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Project No. 96-03, Contract WIII-4, Holland Glade, be approved in the credit amount of \$234,272.47, thereby reducing the final contract amount to \$3,811,512.47.

Motion Adopted: 4 Yea, 1 Absent.

M 077 01
(continued)

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

Proposed
Sea
Country
Estates
SSD/
Receipt
of
Petitions

Mr. Archut, Assistant County Engineer, reported on the receipt of petitions for the Proposed Sea Country Estates Sanitary Sewer District, a 49-lot subdivision. The Proposed District includes the subdivision and an adjacent property, with improvements. Mr. Archut met with the homeowners in August of 2000, and advised them that the construction costs for the project were estimated at \$665,000. He further advised them that the one-time impact fee was estimated at \$1,650 per home and that the annual charges would total approximately \$1,265 per year.

Petitions were circulated and 65 petitions were returned, 64 of which have been determined to be valid. Based on this information, Mr. Archut recommended that a date, time, and place be established for a Public Hearing on the question of organizing the sanitary sewer district. The County Engineering Department is proposing that the Public Hearing be held on April 14, 2001, at 9:30 a.m., at Sound Methodist Church.

M 078 01
Set Public
Hearing
Time and
Date/
Proposed
Sea
Country
Estates
SSD

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based on the receipt of petitions pursuant to 9 Del.C. §6503, the Sussex County Council hereby sets a date and time of April 14, 2001, at 9:30 a.m. for a Public Hearing on the boundaries of the Proposed Sea Country Estates Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

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

Contract
Amendment/
Whitman,
Requardt &
Associates/
Ellendale
SSD

Mr. Archut, Assistant County Engineer, discussed an amendment to the contract with Whitman, Requardt & Associates regarding the Ellendale Sanitary Sewer District and more specifically, New Market Village. Mr. Archut stated that during the planning stages for the Ellendale Sanitary Sewer District, the County was informed that New Market Village had an existing collection system and estimates and plans were prepared based on this information. During the design phase, it was discovered that a collection system did not exist. After they were questioned, the owners of the park decided that they wanted the County to construct the collection system. The County has estimated that construction of the system would cost \$726,000 and the annual front footage would be \$6.45 per front foot (compared to \$1.97 per front foot for the remainder of the Ellendale Sanitary Sewer District). The system connection charge and impact fees would be the same as the rest of the District. To proceed with this plan of action, Mr. Archut advised that it would be necessary to

Amendment (continued) execute an amendment to the contract with Whitman, Requardt & Associates, LLP, for the design of the facilities in New Market Village.

M 079 01 Authorize Amendment to Whitman, Requardt & Associates Contract/ Ellendale SSD A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorizes its President to execute Amendment No. 3, dated January 12, 2001, to its contract with Whitman, Requardt, and Associates, LLP, to provide design services for New Market Village in the Ellendale Sanitary Sewer District, contingent upon the approval of the Department of Natural Resources and Environmental Control and/or the Department of Agriculture, Rural Development.

Motion Adopted: 4 Yea, 1 Absent.

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

Historic Preservation Update Mr. Page, Historic Preservation Planner, provided an update on the Historic Preservation Program in Sussex County and informed Council of some of the things he has been doing over the past six months:

- A DelDOT grant was received in the amount of \$224,000 to build a shoulder extension on Sandy Cove Road in Cedar Neck.
- Assistance has been provided to the Town of Bethel to apply for grants totaling over \$7,000 to establish their first Town Hall at the St. Johns Presbyterian Church and for the rehabilitation of that building for that purpose.
- Assistance has been provided to the City of Lewes to develop new historic district regulations.

Mr. James Ippolito, Councilman for the City of Lewes, was in attendance and informed Council of the tremendous help that Mr. Page has provided the City in their process to develop the new historic district regulations. He stated that Mr. Page's knowledge and expertise of the historic district regulations in other areas has helped the City adapt regulations for Lewes.

Mr. Cole suggested that Mr. Page be added to the list of people/agencies who are notified of rezoning applications for the purpose of soliciting comments.

Wastewater Facilities Mr. Baker, Utility Construction, discussed wastewater facilities to be constructed in Bethany Meadows, Phase V, and Waterside, Phase III, located in the South Bethany Sanitary Sewer District.

M 080 01
Authorize
Agreements/
Bethany
Meadows/
Phase V

A Motion was made by Mr. Cole, seconded by Mr. Rogers, 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 Bethany Beach Development, LLC, for wastewater facilities to be constructed in Bethany Meadow, Phase V, located in the South Bethany Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

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

M 081 01
Authorize
Agreements/
Waterside,
Phase III

A Motion was made by Mr. Cole, seconded by Mr. Rogers, 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 Bethany Proper Limited Partnership for wastewater facilities to be constructed in Waterside, Phase III, located in the South Bethany Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

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

Lagoon
Liner
Replacement
Bid
Recommen-
dation

Mr. George, District Manager, South Coastal Regional Wastewater Facility, discussed the bid results for the Sludge Lagoon Liner Replacement Project. George & Lynch was the only bidder on the project with a bid for one lagoon at \$50,000 and a bid for Lagoon A and C at \$105,000. The sole bid was substantially larger than the quote given by a lagoon liner company in New Jersey.

Mr. George explained that it was determined that the lagoon liner company was not bonded or licensed to work in the State of Delaware. For this reason, the lagoon liner company contacted George and Lynch to submit a bid in which they would act as sub-contractor. This resulted in the price of the lagoon liner being higher than the original estimate.

Mr. Izzo, County Engineer, reported that the lagoon liner company now has the capacity to become bonded and they will be able to submit an actual bid. Based on this information, the Engineering Department is recommending that the bids be rejected and the project re-bid. In addition, the County believes it can do a small scope of the work, which will provide a major cost savings for the project.

M 082 01
Reject
Bids and
Re-bid/
Lagoon
Liner
Replace-
ment
Project

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council reject all bids for Sussex County Project No. 00-04, Lagoon Liner Replacement, and to direct the Engineering Department to re-bid the project as soon as possible.

Motion Adopted: 4 Yea, 1 Absent.

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

M 083 01
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00 from Mr. Phillips' Councilmanic Account to Delmar High School for the purchase of championship rings for the Delmar Wildcats Football Team.

Motion Adopted: 4 Yea, 1 Absent.

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

Draft
Ordinance/
C-1 Zoning

Mr. Cole requested that a draft ordinance be prepared removing the reference to residential zoning from the C-1 commercial zoning ordinance. Mr. Cole stated that he feels the County has enough ordinances pertaining to residential zoning. Mr. Stickels responded that removing all residential dwelling references from the C-1 zoning category could cause a problem because there are times when Council may want to allow for apartments. Mr. Stickels stated that currently 12 units per acre are permitted and he would like the staff to look at reducing this amount. Mr. Stickels suggested allowing residential units as an accessory use to a C-1 zoning district with a limited density. Mr. Cole asked that staff report back to Council within a month with a draft ordinance.

M 084 01
Youth
Activity
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$500.00, \$250.00 each from Mr. Rogers' and Mr. Jones' Youth Activity Grant Accounts, to Milford Magic, Inc. for operating expenses for the girls softball league.

Motion Adopted: 4 Yea, 1 Absent.

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

M 085 01 At 11:12 a.m., a Motion was made by Mr. Phillips, seconded by Mr.
Recess Rogers, 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.

Attorney Mr. Berl, Assistant County Attorney, was present.

Public A Public Hearing was held on the Proposed Ordinance entitled "AN
Hearing ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
(C/U AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE
No. 1382) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
 BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,
 CONTAINING 1.80 ACRES, MORE OR LESS" (Conditional Use No.
 1382) filed on behalf of James J. and Martha G. Turner. The Planning
 and Zoning Commission held a Public Hearing on this application on
 January 25, 2001, at which time they recommended denial.

Mr. and Mrs. Turner were present and advised Council that they propose to use the structure for an office; that several people are interested in leasing the office space; and that DelDOT has told them that Route 54 is being realigned and the shoulder of the road in front of their property will be widened (5 – 9 feet).

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

Councilmembers expressed concern that the parking layout does not work; that the entrance and turning radius are insufficient; and that the venture is speculative.

M 086 01 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt the
Adopt Proposed Ordinance entitled "AN ORDINANCE TO GRANT A
Proposed CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
Ordinance RESIDENTIAL DISTRICT FOR AN OFFICE TO BE LOCATED ON A
(C/U CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE
No. 1382) HUNDRED, SUSSEX COUNTY, CONTAINING 1.80 ACRES, MORE
 OR LESS" (Conditional Use No. 1382) filed on behalf of James J. and
 Martha G. Turner.

Motion Denied: 4 Nay, 1 Absent.

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

Public A Public Hearing was held on the Proposed Ordinance entitled "AN
Hearing ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
(C/U AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OFFICES,
No. 1383) WAREHOUSE, AND STORAGE FOR A HEATING/AIR

Public
Hearing
(C/U
No. 1383)
(continued)

CONDITIONING/PLUMBING/ELECTRICAL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.1033 ACRES, MORE OR LESS” (Conditional Use No. 1383) filed on behalf of Gregory P. Allen and Christopher P. Allen. The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2001, at which time they recommended approval with the following stipulations:

1. This Conditional Use shall be limited to the use of Parcel B, containing 2.0519 acres.
2. The use of the property shall be limited to offices, a warehouse, and storage for a heating/air conditioning/plumbing/electrical business.
3. Business hours shall be from 7:00 a.m. to 7:00 p.m., Monday through Saturday with no Sunday hours.
4. One lighted sign, not exceeding 32 square feet per side or facing shall be permitted.
5. All outside storage shall be contained within a solid fence.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of the appropriate agency approvals.

Mr. Parsons, Attorney, and Mr. Gregory Allen and Mr. Christopher Allen were present on behalf of the application. They stated that the application pertains to two parcels of land; that one of the parcels was approved for a Conditional Use for a radio station several years ago; that they propose to utilize the existing building for office space and warehousing; that they hope to build a pole building for warehousing in the future on Lot A; that there is going to be only one entrance to the property (on Parcel B); that there will be no outside storage once the pole building has been constructed (2 years); and that they have no objections to fencing any outside storage areas.

It was noted that the Planning and Zoning Commission approved the application contingent on the use being limited to Parcel B. Mr. Parsons advised Council that they made application for the use to be permitted on Parcels A and B.

Council questioned when the pole building would be built as they do not want any outside storage. Councilmembers felt that two years would be too long.

Public
Hearing
(continued)

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

Councilmembers discussed deferring action on the application so that members could take a look at the property and so that Mr. Dukes would have the ability to participate in the vote (provided he listens to the taped proceedings of the Hearing).

M 087 01
Defer
Action on
Proposed
Ordinance
(C/U
No. 1383)

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OFFICES, WAREHOUSE, AND STORAGE FOR A HEATING/AIR CONDITIONING/PLUMBING/ELECTRICAL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.1033 ACRES, MORE OR LESS" (Conditional Use No. 1383) filed on behalf of Gregory P. Allen and Christopher P. Allen.

Motion Adopted: 4 Yea, 1 Absent.

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

Public
Hearing
(C/U
No. 1384)

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 CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 62.10 ACRES, MORE OR LESS" (Conditional Use No. 1384) filed on behalf of Catholic Cemeteries, Inc. The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2001, at which time they recommended approval with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

Mark Christian and Tom Cane of Catholic Cemeteries, Inc.; James Fuqua, Attorney; and Tom Ford of Land Design, Inc., were present on behalf of the application. They advised Council that they propose a cemetery and related cemetery accessory uses and that it has been determined that a need exists in Sussex County for a large Catholic cemetery.

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

M 088 01
Ordinance
No. 1434

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1434 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 62.10 ACRES, MORE OR LESS" (Conditional Use No. 1384) filed on behalf of Catholic Cemeteries, Inc., with the following conditions:

1. The conditional use shall be subject to site plan review and approval by the Sussex County Planning and Zoning Commission.
2. A six (6) foot high open fence is permitted along the road perimeters of the cemetery.
3. Interior roads may be twenty-two (22) feet in width.
4. Perpetual care endowment shall be maintained by the applicant and/or the Catholic Diocese to insure future care of the cemetery.

Motion Adopted: 4 Yea, 1 Absent.

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

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 that the proposed use will serve a public need, without adverse impact of any sort.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.

Conflict
of Interest

Due to a potential conflict of interest with the next Public Hearing, Mr. Rogers left the meeting.

Public
Hearing
(C/Z
No. 1420)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 52.7027 ACRES, MORE OR LESS" (Change of Zone No. 1420) filed on behalf of Rehoboth Golf Properties, L.L.C.

Public
Hearing
(continued)

The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2001, at which time they deferred action.

Mr. John Sergovic, Attorney, and Mr. Tony Wiles, a principal in Rehoboth Golf Properties, L.L.C., were present on behalf of the application and stated that the application is for 52 acres of land located on Route 273; that the total proposal is for 148 total units with a density yield of 2.81 units per acre; that the project will provide a variety of residential uses; that the application will show that there has been a concerted effort for this land use to be compatible with neighboring development trends and to meet the direction of the Comprehensive Land Use Plan.

Public comments were heard in opposition to the application. Concerns were expressed that there would be an increase in the density over what the existing acreage would permit; that traffic is already strained along Country Club Road and Road 273; that emergency services in the area will be severely impacted; that continued development in the area could cause a potential adverse effect on the quality and quantity of the water supply; that the west side fence which was installed for the golf course should be removed; and that the proposed 50-foot easement next to Silver View Farm, Inc. should be eliminated and replaced with a required 50-foot buffer.

M 089 01
Leave
Record
Open

A Motion was made by Mr. Cole to defer action and to leave the record open for a period of two weeks for information from the Delaware Nutrient Management Commission. The Motion died due to the lack of a Second.

M 090 01
Defer/Close

A Motion was made by Mr. Phillips to defer action and to close the Public Hearing. The Motion died due to the lack of a Second.

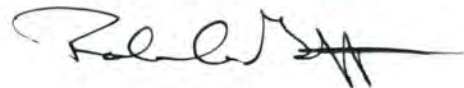
Recess
Hearing

There were no further motions. The Public Hearing was recessed and the record remained open.

M 091 01
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 4:35 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council