

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 29, 2000

Call to Order The regular meeting of the Sussex County Council was held Tuesday, February 29, 2000, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Lynn J. Rogers	President
Dale R. Dukes	Vice President
George B. Cole	Member
Finley B. Jones, Jr.	Member
Vance Phillips	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 108 00 A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the Amend and Approve Agenda by deleting, the following:

“Michael Izzo, County Engineer

1. West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Phase III

A. Contract 3, Five Point North

1. Closeout Change Order”

and; to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 109 00 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve Approve Minutes the minutes of the February 22, 2000 meeting, as distributed.

Motion Adopted: 5 Yea.

M 109 00
(continued)

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

Corre-
spondence

Mr. Bayard read the following correspondence:

AIR QUALITY MANAGEMENT SECTION, DIVISION OF AIR AND
WASTE MANAGEMENT, DOVER, DELAWARE.

RE: Legal Notice regarding the State of Delaware Implementation Plan
for the Attainment and Maintenance of the National Ambient Air Quality
Standard for Ozone.

Fiscal
1999
Audit
Report

Mr. Baker and representatives of the accounting firm of Jefferson, Urian,
Doane & Sterner, P.A., Certified Public Accountants, presented the
County of Sussex, Delaware, Audited Financial Statements and
Additional Information for the Year Ended June 30, 1999. During Fiscal
Year 1999, Sussex County's General Fund experienced an excess of
revenues over expenditures in the amount of \$7,127,612. This is the
ninth straight year that the County's General Fund has had a positive
financial result. Mr. Baker noted that 1999 was an excellent year; the
best year the County has had (financially on the General Fund side).

Fiscal 1999 highlights included the following:

- (1) Revenues from Realty Transfer Tax were \$2,364,00 over budget; Recorder of Deeds' revenues were \$763,000 over budget; building permits and zoning fees were \$240,000 over budget; building inspection fees were \$251,000 over budget; and interest earnings were \$566,000 over budget.
- (2) There was a one-time repayment of Loans Receivable in the amount of \$431,000 resulting from the sale of Pats to DeCrane (Economic Development Fund).
- (3) In Fiscal 1999, the Pension Fund had investment income in the amount of \$1,165,000; the assets increased 13 percent to \$14.2 Million.
- (4) There was a net change in retained earnings for sewer and water districts in the amount of \$1,830,000 (revenues exceeded expenditures). Nine out of the eleven districts had a net increase in retained earnings. Each district has adequate cash reserves; the cash reserves of the remaining two districts cover the net decrease in their retained earnings.

Fiscal
1999
Audit
Report
(continued)

- (5) The sewer and water districts had major expenditures during the year. These expenditures are important as many of the sewer and water districts require increased maintenance and upgrades. As the sewer and water districts continue to age, more expenditures will be necessary.
- (6) \$1.1 Million of General Fixed Assets was added without incurring any new debt for the General Fund (800-Megahertz Radio System, Vehicles, Paramedic Defibrulators, and the AS400 Upgrade).
- (7) Total Assets (property, plant and equipment) for sewer and water districts as of June 30, 1999, totaled \$210,000,000. This compares to \$74,000,000 ten years ago; an increase of approximately 184 percent.
- (8) Eight hundred eighty one thousand, eight hundred and twenty dollars (\$881,820) was contributed to the Pension Plan in 1999. This amount exceeds the amount of contributions made during the ten-year period from 1976 to 1986.
- (9) Unfunded Actuarial Accrued Liability is \$1,959,170; down from \$6,086,305 in 1995.
- (10) Revenues over expenditures totaled \$6,927,612; the largest amount in the 1984 to 1999 Schedule.

Mr. Baker reported that the undesignated fund balance compared to Fiscal 2000 General Fund budgeted expenditures (unobligated reserves) is \$7,135,873 (approximately 25 percent of the County's budget for Fiscal 2000). This compares to 28 percent for the State of Delaware; 67 percent (\$73 Million) for New Castle County and 76 percent (\$9.5 Million) for Kent County. Mr. Stickels noted that although this is a very favorable General Fund Financial Report, consideration must be given to future needs in Sussex County. Mr. Stickels pointed out that in Fiscal 2000, the County has paid off the loan for the Administrative Office Building in the amount of \$2.9 Million and \$1 Million has been contributed to the County's Pension Plan. Mr. Stickels distributed a list of future expenditures and other outstanding obligations totaling \$15,115,366, as follows:

Pension Fund Liability	\$ 884,000
Computer Aided Dispatch Replacement Program	750,000
General Debt – Outstanding	3,494,366
Additional Paramedic Services	400,000
Milton Library	300,000
South Coastal Library	100,000

Fiscal 1999 Audit Report (continued)	Records Management	\$ 200,000
	800 Megahertz Communications	150,000
	Landfill Postclosure Care	2,882,000
	Land Use Plan	100,000
	Pensioner Group Hospital Liability	1,500,000
	Sewer Assistance Grants	2,000,000
	Vehicle Replacement	150,000
	Record Retention Building	300,000
	Sewer Planning Studies – Engineering Department	225,000
	Computer Software Upgrade & Training	200,000
	Industrial Park Water System Improvements	150,000
	Airport Projects – County Share	1,330,000

Mr. Stickels also distributed a list of sewer projects current in process, totaling \$54,445,000, as follows:

Cedar Neck Sewer	\$11,530,000
Ocean View Sewer	8,050,000
North Millville Sewer Extension	365,000
South Coastal Regional Wastewater Facility Pump Station Improvements and Head Works	3,800,000
Holts Landing Sewer	3,110,000
Ellendale Sewer	6,990,000
West Rehoboth Sewer Phase III	20,600,000

Mr. Stickels discussed the criteria that will be used in developing the FY 2001 budget, as follows:

1. The County will maintain 18 to 25 percent of unobligated reserves. Maintaining a minimum of 18 percent of reserves will be beneficial in maintaining our AA bond rating with Moody's Investors Service.
2. Retained earnings from the realty transfer tax will be used in paying off outstanding bonds that are not revenue generators. The same funding will also be used to eliminate shortfalls in the Pension Fund.
3. A minimum of 50 percent of the realty transfer tax overages will be used for wastewater assistance after Items 1 and 2 are satisfied. (It is anticipated that in 2001, \$2,000,000 will be available for sewer districts. One million four hundred thousand dollars (\$1,400,000) has been made available for sewer districts in Fiscal Years 1999 and 2000.)

Fiscal
1999
Audit
Report
(continued)

- 4. The County Property Tax Subsidy Program will increase eligibility income. Single applicant income cannot exceed \$14,400. For eligible applicants with dependents, annual income cannot exceed \$18,400. Eligible applicants may not have more than \$10,000 of liquid assets.
- 5. Funding will be increased for individual assistance for residents in the sewer districts for the programs that were established with the FY 2000 budget.

Mr. Stickels stated that developing this financial course of action in the 2001 budget will provide financial benefits to future Councils and taxpayers.

Mr. Phillips suggested that the County use the same criteria as HUD for Item No. 4.

It is the opinion of Jefferson, Urian, Doane & Sterner, P.A. that the general purpose financial statements present fairly, in all material respects, the financial position of the County of Sussex, Delaware as of June 30, 1999, and the results of its operations and the cash flows of its proprietary fund types for the year then ended are in conformity with generally accepted accounting principles.

Industrial
Revenue
Bond
Application/
Perdue-
AgriRecycle,
LLC

Mr. Baker advised that on this date the IRB Committee met and reviewed an application for the financing of a project to acquire, construct and equip a 63,000 square foot building for conversion of poultry litter into fertilizer. The applicant, Perdue-AgriRecycle, LLC, has requested that the County finance a portion of the costs of the Project through the issuance by the County of Industrial Development Revenue Bonds in a principal amount not to exceed \$12,000,000. The Committee approved the application and recommended that Council Adopt the Resolution of Intention to issue the Bonds.

M 110 00
Adopt
Resolution
No.
R 011 00

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Resolution No. R 011 00 entitled "RESOLUTION OF INTENTION TO ISSUE \$12,000,000 INDUSTRIAL DEVELOPMENT REVENUE BONDS (PERDUE-AGRIRECYCLE, LLC PROJECT)".

Motion Adopted: 4 Yea, 1 Abstention.

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

Mr. Phillips abstained due to a possible conflict of interest.

M 111 00
Authorize
Executive
Session

A Motion was made by Mr. Dukes, seconded by Jones, to authorize an Executive Session to be held immediately following the morning session of the County Council meeting on this date, February 29, 2000, for the purpose of discussing pending litigation.

Motion Adopted: 5 Yea.

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

M 112 00
Adopt
Proclamation

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt the Proclamation entitled "PROCLAIMING THE MONTH OF MARCH AS 'WOMEN'S HISTORY MONTH'".

Motion Adopted: 5 Yea.

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

Auction

Mr. Stickels reported on the auction that took place on February 22, 2000, at 8 N. Race Street, Georgetown.

M 113 00
Approve
Sale of
Surplus
County
Property

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council, having publicly offered the property located at 8 N. Race Street, hereby approves the sale of the property to Ricot Exantus at a bid of \$71,000.

Motion Adopted: 5 Yea.

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

Proposed
Ordinance
Amending
the
Subdivision
Code of
Sussex
County

The County Council discussed four proposed versions of an amendment to the Subdivision Code of Sussex County, relating to notice requirements for amendments and alterations to subdivisions. The proposals were submitted by Mr. Vance Phillips, County Councilman; Mr. Dennis Schrader, Assistant County Attorney; Mr. Robert Witsil, Attorney; and Mr. Michael Mock. Discussion focused on the number of lot owners that are required to approve a plan for re-subdivision. Under the County's current Ordinance, changes to a major subdivision can be prohibited by the dissenting vote of only one (1) property owner; the Ordinance requires 100 percent property owner approval. Mr. Bayard noted that the County's current ordinance does not distinguish between minor and major subdivisions; and therefore, all subdivisions are subject to this requirement.

Proposed Ordinance (continued)

Mr. Schrader recommended that the County introduce the proposal he drafted as it “puts all the issues on the table” for discussion at Public Hearing.

Council deferred action. Comments on Mr. Schrader’s proposal will be solicited from Mr. Witsil and Mr. Bradley.

Administrator’s Report

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

1. Council Meeting Schedule

The Sussex County Council will not meet Tuesday, March 7, 2000. County Council members and staff will be attending the National Association of Counties Legislative Conference being held in Washington, D.C., from Friday, March 3, to Tuesday, March 7. David Baker, Finance Director; Lynn Rogers, President of the County Council; and I will be meeting with staff of Senators Biden and Roth on Tuesday, March 7, 2000, to discuss federal assistance for West Rehoboth. We will be requesting funding assistance in the amount of \$15 million.

The next regularly scheduled Council meeting will be at 10:00 a.m. on Tuesday, March 14, 2000.

Public Hearing/
Housing Preservation Grant Program

A Public Hearing was held to give all citizens an opportunity to participate in the development of a pre-application to the United States Department of Agriculture, Farmers Home Administration, for a grant under Section 533 of the Housing Act of 1949, 42 U.S.C. 1490(M), as amended, and known as the Housing Preservation Grant (HPG) Program.

The primary objective of the (HPG) Program is the development of viable rural communities, including decent housing and a suitable living environment, principally for persons of low and very low income. It is also a primary objective to alleviate or remove health or safety hazards of homes to meet applicable development standards or make needed repairs to improve the general living conditions of the resident(s), including improved accessibility by handicapped persons.

The pre-application will be submitted in the amount of \$40,000, as follows:

	<u>Sussex</u>	<u>Kent</u>
Housing Rehabilitation Grants	\$16,000	\$16,000
Administration	\$ 4,000	\$ 4,000

Public
Hearing/
HPG
Program
(continued)

The Statement of Activity was introduced; it is proposed that the HPG funds be utilized to improve the substandard conditions of approximately twelve dwellings; ten grant recipients will be very low income homeowners and two will be low income homeowners. The program funds will be used to underwrite the costs of materials and labor from licensed contractors. All prospective grantees would have to meet Section 8 income guidelines.

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

M 114 00
Adopt
Resolution
No.
R 012 00

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Resolution No. R 012 00 entitled "ENDORSED PROJECT TO BE SUBMITTED TO THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL HOUSING SERVICES, FOR FUNDING AND AUTHORIZING ROBERT L. STICKELS, COUNTY ADMINISTRATOR, TO SUBMIT PREAPPLICATION".

Motion Adopted: 5 Yea.

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

Proposed
Bay View
Estates SSD
Referendum
Results

Mr. Archut, Assistant County Engineer, reported on the referendum results for the Proposed Bay View Estates Sanitary Sewer District. The referendum was held on Thursday, February 24, 2000. One hundred and seventeen (117) votes were cast in person at the referendum and 39 valid absentee ballots were submitted for a total of 156 voters in the referendum. Final results were 124 "For" and 32 "Against" and the referendum was approved.

M 115 00
Adopt
Resolution
No.
R 013 00

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 013 00 entitled "BAY VIEW ESTATES SANITARY SEWER DISTRICT DECLARED UNDER THE PROVISIONS OF TITLE 9, CHAPTER 65 OF THE DELAWARE CODE".

Motion Adopted: 5 Yea.

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

M 116 00
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,000 from Mr. Cole's Councilmanic Account to the Roxana Volunteer Fire Company for renovations and a new ambulance.

Motion Adopted: 5 Yea.

M 116 00
(continued)

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

M 117 00
Council-
manic
Grant
and
Youth
Activity
Fund
Grant

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00, \$250.00 from Mr. Jones' Councilmanic Account and \$250.00 from Mr. Rogers' Youth Activity Fund, to the Milford Little League, Inc. for the purchase of lights and poles.

Motion Adopted: 5 Yea.

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

M 118 00
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$300.00, \$150.00 each from Mr. Jones' and Mr. Rogers' Councilmanic Accounts, to Prospect A.M.E. Church for the Women's Day Celebration 2000.

Motion Adopted: 5 Yea.

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

M 119 00
Council-
manic
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$250.00 from Mr. Rogers' Councilmanic Account to the Cape Henlopen Lodge No. 2540 for the World War II Memorial Community Tribute Banquet.

Motion Adopted: 5 Yea.

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

M 120 00
Recess

At 11:48 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Jones, to recess and go into Executive Session. Motion Adopted by Voice Vote.

Executive
Session

An Executive Session of the Sussex County Council was held Tuesday, February 29, 2000, at 11:55 a.m., in the Caucus Room of the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, for the purpose of discussing pending litigation. The Executive Session concluded at 12:15 p.m. and the regular meeting was recessed until 1:30 p.m.

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

Public Hearing (C/U No. 1325) 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 MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 28,393 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1325) filed on behalf of Mark Wolfe. The Planning and Zoning Commission held a Public Hearing on this application on February 10, 2000, at which time they recommended approval with stipulations. Council clarified that the application for 2 units includes only the existing home and the proposed garage apartment; a proposed efficiency apartment was not considered as part of this application. There were no public comments and the Public Hearing was closed.

M 121 00 Adopt Ordinance No. 1365 (C/U No. 1325) A Motion was by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1365 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 28,393 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1325) filed on behalf of Mark Wolfe, with the following stipulations:

1. The garage may be converted to an apartment.
2. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, 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 have no adverse impact of any sort and will be consistent with the character of the neighborhood as developed and consistent with the purposes and goals of the Comprehensive Land Use Plan.

Findings
(continued)

2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/Z
No. 1395)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDNIANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.41 ACRES, MORE OR LESS" (Change of Zone No. 1395) filed on behalf of Route 24 Auto Sales.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on February 10, 2000, at which time they recommended approval. There were no public comments and the public hearing was closed.

M 122 00
Adopt
Ordinance
No. 1366
(C/Z
No. 1395)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1366 entitled "AN ORDNIANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.41 ACRES, MORE OR LESS" (Change of Zone No. 1395) filed on behalf of Route 24 Auto Sales.

Motion Adopted: 5 Yea.

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

Findings
of Fact

The Council found that the change of zone was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the change of zone is consistent with the character of the neighborhood as it is presently developing and since it adjoins a Development District.
2. The applicant established by substantial evidence that the change of zone is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The applicant's proposed business will serve the convenience of the Long Neck community.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 123 00
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00 from Mr. Rogers' Councilmanic Account to the Milton Public Library for the purchase of an Optelec Video Magnifier.

Motion Adopted: 5 Yea.

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

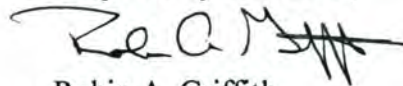
Grant
Funding
Procedure

Council discussed the procedure by which Councilmanic and Youth Activity Grant funding is considered. It was decided that requests for funding would be considered once a month.

M 124 00
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to adjourn at 2:25 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council