

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 14, 2000

Call to Order The regular meeting of the Sussex County Council was held Tuesday, March 14, 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 125 00 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve
Approve the Agenda, as distributed.
Agenda

Motion Adopted: 5 Yea.

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

M 126 00 A Motion was made by Mr. Dukes, seconded by Mr. Jones, to approve
Approve the minutes of the February 29, 2000 meeting, as distributed.
Minutes

Motion Adopted: 5 Yea.

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

No The Sussex County Council did not meet on March 7, 2000. Council
Council members and staff attended the National Association of Counties
Meeting Conference in Washington D.C.

Corre- Mr. Bayard read the following correspondence:
spondence

ROSALEE B. WALLS, PRESIDENT, SUSSEX COUNTY RETURN
DAY, INC., GEORGETOWN, DELAWARE.
RE: Letter in support of Brian Page, Sussex County's Historical Planner.

Delaware
State
Police
Agreement/
Presentation
of
Vehicles

Mr. Rogers turned over the keys to six new vehicles to Colonel Gerald Pepper of the Delaware State Police. Four of the vehicles are Ford Crown Victorias and two are Dodge Durangos. Mr. Stickels noted that the Delaware State Police and the Sussex County Council are in the fifth year of an Agreement in which the County agreed to contribute money to the Delaware State Police for enforcement funding. In accordance with this Agreement, the County provides funding for vehicles and troopers. Over the five-year period, Sussex County has contributed \$1,240,267. Sussex County is the only County in Delaware to provide this funding.

Colonel Pepper advised Council that the Dodge Durangos (4-wheel drive vehicles) will be beneficial in providing transportation for troopers during inclement weather, especially along the Route One corridor during nor'easters. The Durangos will be assigned to Troops 4 and 7.

Plaque
Presentation

The Sussex County Council presented a plaque to the Manufactured Housing Association for their participation in the Carolling on The Circle Food Drive.

M 127 00
Adopt
Proclamation

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proclamation entitled "PROCLAMATION HONORING DAVID ROGERS, HENLOPEN CONFERENCE COACH OF THE YEAR".

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
Relating
to
Subdivision
Changes

Mr. Lank, Director of Planning & Zoning, discussed Mr. Schrader's version of the draft ordinance relating to notice requirements for amendments and alterations to subdivisions. This issue was discussed on February 29, 2000, at which time action was deferred for the purpose of soliciting comments from Mr. Witsil and Mr. Bradley. It was noted that comments were received from Mr. Witsil in opposition to the proposed ordinance; however, after a review of the letter received from Mr. Witsil, it was apparent that Mr. Witsil was not commenting on the most recent draft prepared by Mr. Schrader. It was the consensus of Council to defer action for one week; to forward the most recent draft to Mr. Witsil; and to once again, solicit his comments.

DelDOT
Committee

Mr. Stickels discussed the request made by the Delaware Department of Transportation that the County provide Committee members to participate in the Long-Range Transportation Plan update for Sussex County. Each Council member was asked to submit two names to Mr. Stickels by Tuesday, February 29, 2000.

DelDOT
Committee
(Sussex
County
Transportation
Plan
Advisory
Committee)
(continued)

Mr. Stickels reported that the following names were submitted:

Rich Collins, Lewes (Rogers' appointment)
Bonnie McDaniel, Rehoboth (Rogers' appointment)
William Glenn, Seaford (Dukes' appointment)
Delores Slatcher, Seaford (Dukes' appointment)
Sam Wilson, Georgetown (Jones' appointment)
Donnie Donovan (Jones' appointment)
Phillip Tarpley (Cole's appointment)
Herbert Bird (Cole's appointment)
Marty Ross, Delmar (Phillips' appointment)
Debbie Brittingham, Laurel (Phillips' appointment)

Mr. Stickels reported that, additionally, the President of the County Council is asked to serve, or a designated Council person; Chairman of the Planning and Zoning Commission, or a designated Planning and Zoning Commission member; staff member of the Planning and Zoning Department; and staff member of the County's Economic Development Office. The Department of Transportation will also be selecting individuals to serve representing the following areas: Agricultural Business – two members; Environmental Groups – two members; Tourist Industry – one member; Civic Associations – three members; Chamber of Commerce – one member; Trucking Industry – two members; Delaware River & Bay Authority – one member; Railroad Service – one member; Sussex County Association of Towns – two members; Sussex County Volunteer Firemen's Association – one member.

M 128 00
Approve
Appoint-
ments to
Transportation
Plan
Advisory
Committee

A Motion was made by Mr. Cole, seconded by Mr. Jones, to approve the appointments to the Transportation Planning Advisory Committee, as submitted.

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

1. Change of Zone No. 1393 – CMF Bayside, L.L.C. (also referred to as Americana Bayside)

Please be advised that the public hearings for the proposed project known as Americana Bayside have been changed to the Sussex County Senior Services (CHEER) Community Center located at 5 Sand Hill Road, Georgetown, Delaware, approximately one mile east of The Circle. This move is an effort to accommodate everyone with

Adminis-
trator's
Report
(continued)

an opportunity to give testimony at the hearings. The Planning and Zoning Commission will hear the proposed project on Thursday, March 16, 29000, at 7:00 p.m., and the County Council public hearing will take place on Tuesday, April 4, 2000, at 1:30 p.m.

2. Airport Committee

The next regularly scheduled meeting of the Sussex County Airport Committee will be held on Wednesday, April 5, 2000, at the Sussex County Administrative West Complex, 9 North DuPont Highway, Georgetown, Delaware, at 10:00 a.m. The general public is encouraged to attend this meeting.

3. Rehoboth Mall Limited Partnership v. Sussex County

I am pleased to inform the Council that the Supreme Court of the State of Delaware has upheld an earlier finding of the Superior Court regarding Rehoboth Mall Limited Partnership v. Sussex County Council. The original suit was filed by Rehoboth Mall, L.P.; R. R. Bayside, Inc.; R. R. Seaside, Inc.; and R.R. Rehoboth, Inc., as a declaratory judgement action in which the four outlet malls asked that the Superior Court declare the method of calculation of equivalent dwelling units (EDUs), as applied to commercial establishments, was arbitrary and capricious when compared to EDU's charged residential users. The Superior Court held, in June 1999, that the method of calculation was not arbitrary and capricious and awarded judgment to the County Council. Therefore, Rehoboth Mall, without the other plaintiffs, filed an appeal to the Delaware Supreme Court. On the 8th day of March 2000, upon consideration of the briefs of the parties, the Supreme Court concluded that the appeal should be affirmed on the basis of, and for the reasons set forth in, the Order of the Superior Court.

This is the second time within 30 days that the Supreme Court has upheld the County's equivalent dwelling unit billing system. On February 14, 2000, a similar decision was made in the case of Gillespie v. Sussex County Council, in which the plaintiffs challenged the County's method of charging for residential homes.

4. Public Meeting – Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District

The Sussex County Engineering Department will be holding a public information meeting on Saturday, March 18, 2000, at 9:00 a.m. at the Millville Volunteer Fire Department, Route 26, Millville, Delaware. The purpose of the meeting is to convey information regarding the forthcoming construction of the Cedar Neck sewer project. Areas north of Ocean View and along County Road 360

Adminis-
trator's
Report
(continued)

will be impacted. Further, in accordance with the Section 106 review process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that might affect historic properties or cultural resources of significance to such agencies and individuals. All interested persons, residents, taxpayers, property owners, or corporations are welcome to attend this informational meeting.

PATS
Foundation
Loan
Agreement
(Taylorcraft
2000
Project)

Mr. Baker presented a Proposed Resolution authorizing a \$400,000 loan from the County's Economic Development Fund for the Taylorcraft 2000 Project. Mr. Baker noted that, initially, Taylorcraft requested a loan from the County in the amount of \$250,000 to finance a portion of the costs of the project. However, due to the fact that grant funding from the State was not in the amount anticipated, additional funding is needed from the County. The Taylorcraft Project consists of the acquisition of an existing building on Lots 24 and 25, Baltimore Avenue, Sussex County Industrial Airpark in Georgetown; the renovation thereof; the construction of a new airplane hangar, and the acquisition of equipment all to be used in the business of manufacturing aircraft. In connection with the project, Taylorcraft expects to create 150 new jobs within three years. Upon adoption of the Proposed Resolution, the County would be authorizing the loan in the amount of \$400,000 subject to the following conditions: (1) the County Administrator's approval of the budget for the Project; (2) the County Administrator's determination that the Applicant has evidenced the availability of all funds necessary to complete the Project; (3) the term of the loan to be for up to five years; (4) the interest rate on the loan to be not less than 3% per annum; (5) the County to receive a mortgage on the Project; (6) if a substantial portion of the Project facilities or a majority interest in the ownership of the entities which own the Project facilities, is sold, the loan shall be accelerated and become immediately due and payable; and (7) if the Applicant has not created at least 85 full time jobs by the end of three years, the interest rate on the loan shall be increased by 0.5% per annum for each ten job deficiency until the later of the maturity of the loan or until 85 full time jobs are created. At the request of the Applicant, the loan may be made to the Harvey and Vera Patrick Family Foundation or their affiliate of the Applicant so long as the other terms of the loan are consistent with the other terms of the Proposed Resolution.

M 129 00
Adopt
Resolution
No.
R 014 00

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Resolution No. R 014 00 entitled "RESOLUTION AUTHORIZING A \$400,000 LOAN FOR TAYLORCRAFT 2000 PROJECT".

Motion Adopted: 5 Yea.

M 129 00
(continued)

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

New Road
Extension
Request/
West
Rehoboth
Expansion

Mr. Archut, Assistant County Engineer, discussed a proposed extension to the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The proposed extension would include 14 residential parcels (and 1 pump station parcel) along New Road. The County contacted all of the property owners and received the following response: 12 residential parcels requested to be included and 2 residential parcels requested to remain excluded. The parcels to be included (11 vacant parcels and 1 parcel with a home under construction) are owned by Halsey and Joan Knapp (10 parcels), Robert and Kerri Best (1 parcel), Fred Best (1 parcel), and Sussex County (1 parcel). The 2 parcels that will remain excluded are owned by Alfred and Edna Best.

M 130 00
Prepare
and Post
Notices for
New Road
Extension
Request

A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District boundary to include parcels along New Road, as presented on March 14, 2000.

Motion Adopted: 5 Yea.

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

Public
Hearing/
Ashley
Manor
Extension
Request/
Fenwick
Island
SSD

A Public Hearing was held to consider extending the Fenwick Island Sanitary Sewer District (FISSD) to include the proposed Ashley Manor subdivision and adjacent properties. Mr. Tim Monroe, owner of an adjacent property in the proposed extension, addressed Council and advised that he supports the proposed extension; however, he wants his property to be exempted. Mr. Monroe further advised that he does not need sewer service from the County and does not feel he should have to pay fees for something he does not need. The Public Hearing was closed. It was the consensus of Council to defer action to permit a discussion between Mr. Archut, Assistant County Engineer; Mr. Woodring, the developer of Ashley Manor; and Mr. Monroe, property owner.

Public
Hearing/
Beebe
Medical
Center

A Public Hearing was held to consider extending the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District to include Beebe Medical Center's proposed Out Patient Services Center property. The proposed extension is for this one single parcel of land. There were no public comments and the Public Hearing was closed.

M 131 00
Adopt
Resolution
No
R 015 00

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 015 00 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE WEST REHOBOTH EXPANSION OF THE DEWEY BEACH SANITARY SEWER DISTRICT (WRX) TO ENCOMPASS A CERTAIN PIECE, PARCEL, OR TRACT OF LAND KNOWN AS BEEBE MEDICAL CENTER'S PROPOSED OUTPATIENT SERVICES CENTER, LYING CONTIGUOUS TO THE WRX, SITUATE ON STATE OF DELAWARE ROUTE 24, WEST OF STATE OF DELAWARE ROUTE ONE AND BEING IN LEWES-REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE".

Motion Adopted: 5 Yea.

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

Holland
Glade/
Change
Order
No. 1/
West
Rehoboth

Mr. Izzo, County Engineer, reviewed a proposed change order to the Holland Glade Contract (Contract WRIII-4) for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. During the restoration process of Sandalwood Drive in Holland Glade, the homeowners agreed and requested that the road be upgraded from tar and chip to hot mix overlay at a cost of \$7,370. This amount will be paid to the County by the homeowners.

M 132 00
Approve
Change
Order/
Holland
Glade/
West
Rehoboth

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based on the recommendation of the Consulting Engineers, George, Miles and Buhr, LLP, and the County Engineering Department, that the Sussex County Council approves Change Order No. 1 for Contract WRIII-4, Holland Glade, in the amount of \$7,370.00, which will provide for the 2-inch hot mix overlay in lieu of surface treatment restoration on Sandalwood Drive.

Motion Adopted: 5 Yea.

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

M 133 00
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$250.00, \$50.00 from each Councilmanic Account, to the Sussex County Lifesaving Association, for the sponsorship of Tim Ferry, Captain, Bethany Beach Patrol, Sussex County Lifesaving Association, at the World Lifesaving Championships to be held in Sydney, Australia.

Motion Adopted: 5 Yea.

M 133 00
(continued)

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

M 134 00
Council-
manic
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to provide two port-a-potties, at an approximate cost of \$350.00, at Broadkill Beach from Memorial Day through Labor Day, with the cost to be deducted from Mr. Rogers' Councilmanic Account.

Motion Adopted: 5 Yea.

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

Funding
Requests

It was the consensus of Council to consider requests for Councilmanic Grant funding and Youth Activity Grant funding on a monthly basis.

RBV&CC/
Agreements

Mr. Green, Director of Utility Construction, discussed agreements associated with wastewater facilities to be constructed in Rehoboth Beach Yacht and Country Club.

M 135 00
Authorize
Agreements/
Rehoboth
Beach
Yacht &
Country
Club

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, 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 Great South Beach Improvement Company for wastewater facilities to be constructed in Rehoboth Beach Yacht and Country Club, Phase 6A, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

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

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 15.46 ACRES, MORE OR LESS" (Change of Zone No. 1403) filed on behalf of Providence Land, LTD. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE BUILDING FOR AN AUCTION COMPANY (NO RETAIL) AND A STORAGE BUILDING FOR A LANDSCAPING BUSINESS (NO RETAIL) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS" (Conditional Use No. 1334) filed on behalf of William D. Emmert and Ted Nowakowski, Jr. The Proposed Ordinance will be advertised for Public Hearing.

M 136 00
Youth
Activity
Grant
Funding

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$200.00 from Mr. Cole's Youth Activity Fund to the Sussex Stingrays for tournament sponsorship.

Motion Adopted: 5 Yea.

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

M 137 00
Youth
Activity
Grant
Funding

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$200.00 from Mr. Dukes' Youth Activity Fund to the Delaware Devils for tournament expenses.

Motion Adopted: 5 Yea.

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

Corre-
spondence

Mr. Dukes read the following correspondence:

EDNA MARVIL, CORRESPONDING SECRETARY, LAUREL ALUMNI ASSOCIATION, LAUREL, DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

M 138 00
Council-
manic
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$1,000.00, \$200.00 from each Councilmanic Account, to the Sussex County Veterans Council to place flags on graves of Veterans on Memorial Day.

Motion Adopted: 5 Yea.

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

M 139 00
Recess

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Rogers called Council back into session at 1:33 p.m.

Public
Hearing
(C/U
No. 1326)

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 PROPANE AND FUEL STORAGE FOR OFF SITE SALES AND MAINTENANCE OF APPURTENANT EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 17.54 ACRES, MORE OR LESS" (Conditional Use No. 1326) filed on behalf of Robert A. Willey. The Planning and Zoning Commission held a Public Hearing on this application on February 24, 2000, at which time they recommended the application be approved with stipulations. The applicant and his representative from the office of Charles Murphy presented the application. There were no public comments and the Public Hearing was closed.

M 140 00
Adopt
Ordinance
No. 1367
(C/U
No. 1326)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1367 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROPANE AND FUEL STORAGE FOR OFF SITE SALES AND MAINTENANCE OF APPURTENANT EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 17.54 ACRES, MORE OR LESS" (Conditional Use No. 1326) filed on behalf of Robert A. Willey, with the following conditions:

1. On-premise and off-premise sales may be permitted.
2. The conditional use boundary shall be reduced by establishing the northeast boundary 30' from the rear of the frame shed and running a line parallel to Route 5 to buffer the wooded area to the rear of the site.
3. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Abstention.

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

Findings
of Fact

The Council found that the conditional use was appropriate legislative action based on the findings of fact:

1. The applicant established by substantial evidence that the proposed use is not an expansion or enlargement of the existing facility, but instead is designed to bring the existing facility into conformity with all requirements of the Comprehensive Zoning Ordinance. Thereby, since the use is pre-existing, there will be no adverse impact of any sort on the neighborhood and surrounding area.
2. The use is consistent with the purposes and goals of the Comprehensive Land Use Plan and provides propane and fuel oil to a variety of residential, commercial, and agricultural customers in northeastern and central Sussex County.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1327)

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 LAWN MOWER REPAIR AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.47 ACRES, MORE OR LESS (Conditional Use No. 1327) filed on behalf of Frank Cochran. The Planning & Zoning Commission held a Public Hearing on this application on February 24, 2000, at which time they recommended denial based on the record of opposition by area residents; since the use is not appropriate for the residential area; due to the lack of upkeep and maintenance of the site; and the violations.

The applicant, Frank Cochran, and his representative, Maxwell Morris, Surveyor, informed Council that, due to the opposition of area residents, they were amending the application to eliminate the request for a boat storage area. In response to other concerns expressed by area residents, the applicant advised that (1) all work on mowers will be done inside the pole shed thereby eliminating noise; (2) a 6 foot solid stockade fence will be erected at the rear of the property; and (3) all gasoline and oil is taken off-site for proper disposal. There were no public comments in support of the application.

Public comments were heard in opposition to the application from residents of Sherwood Acres. Residents expressed their opposition to the application and referenced the dumping of gasoline and oil into the ground, noise pollution, junk on the property, and the track record of the applicant in maintaining order on this property and previously owned properties.

Public
Hearing
(C/U
No. 1327)
(continued)

Mr. Cole addressed the opposition stating that the conditional use application, if approved, could benefit the residents of Sherwood Acres as stipulations would be placed on the conditional use application to protect the area by regulating the activity.

The following proposed conditions were discussed by Council:

1. A six foot solid fence screening Sherwood Acres.
2. All mower work will be inside building.
3. No boat storage shall take place on-site.
4. Hours of operation shall be 8:00 a.m. to 6:00 p.m. with no Sunday hours.
5. No sign will be permitted on the site.
6. Gas and oil shall be disposed of off-site.
7. No sale of mowers will take place on the site.
8. Site plan shall be subject to review and approval by the Planning and Zoning Commission.

The Public Hearing was closed. It was the consensus of Council to defer action. Council directed the Sherwood Acres Homeowners Association to review the proposed stipulations and to respond to Council as to whether they would support the application with the proposed conditions or with any additional conditions; or whether they would not support the application at all. The applicant was also requested to respond to Council in regards to the proposed conditions. The record was left open for these comments. Action was deferred for a period of one week.

Public
Hearing
(C/Z
No. 1397)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR/RPC GENERAL RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY TO A GR/RPC GENERAL RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY BY AMENDING ORDINANCE NO. 1269 (CHANGE OF ZONE NO. 1350) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 40.00 ACRES, MORE OR LESS" (Change of Zone No. 1397) filed on behalf of Robino-Seaside L.L.C.

Public
Hearing
(C/Z
No. 1397)
(continued)

Mr. Lank reported that the original Residential Planned Community (Change of Zone No. 1291) was approved for eighty single family lots and was replaced by Change of Zone No. 1350 for eighty units within four buildings. Mr. Fuqua, Attorney for the applicant, stated that in this application (Change of Zone No. 1397) they propose to amend the approved Residential Planned Community back to the original 80 single-family lots.

The Planning & Zoning Commission held a Public Hearing on this application on February 24, 2000, at which time they recommended approval with stipulations.

(Mr. Bayard, County Attorney, left the meeting during this Public Hearing.)

Public comments were heard. Letters were read into the record from Mabel Granke, the Sierra Club, and the Citizens Coalition, Inc. Ms. Granke brought to the attention of Council the County's Ordinance No. 774 relating to a fifty-foot buffer zone to be established from the mean high water line of tidal waters, tidal tributary streams and tidal wetlands and from the ordinary high water line of perennial nontidal rivers and nontidal streams of Sussex County.

Council considered the fifty-foot buffer zone as it related to the application and discussed a proposed stipulation to address the requirement.

The Public Hearing was closed.

M 141 00
Adopt
Ordinance
No. 1368
(C/Z
No. 1397)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1350 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR/RPC GENERAL RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY TO A GR/RPC GENERAL RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY BY AMENDING ORDINANCE NO. 1269 (CHANGE OF ZONE NO. 1350) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 40.00 ACRES, MORE OR LESS" (Change of Zone No. 1397) filed on behalf of Robino-Seaside L.L.C., with the following conditions:

1. The maximum number of lots shall not exceed 80.
2. An eight foot solid board fence (the appearance to be the same on both sides) will be installed by the developers, or its assigns, along the property line (southerly) of lots 3-34-13 Insert Sheet K, Insert A, Parcels #518, 513, 512, 511, 510, 509, and 508. As an alternative at

M 141 00
(continued)

the option of the owners of said lots in Beachfield, the developers, or its assigns will plant a single row of Leyland Cypress along said property line to act as a buffer. The fence or single row of Leyland Cypress will be installed at the sole cost and expense of the developers, or its assigns, and such activity shall be initiated within fifteen days of the date when construction of the utilities and roadway for the assisted living project adjoining said lots is completed. The installation of the trees or fence shall be pursued diligently once the work is begun.

3. The developers also agree to install a single row of Leyland Cypress from lot 507 to the lot where the woods line begins. The row of Leyland Cypress shall be located approximately ten feet from the edge of the roadway paving.
4. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.
5. No mobile homes, as defined in the Sussex County Comprehensive Zoning Ordinance, shall be permitted on any lot located in the RPC except temporary construction trailers associated with construction on the site.
6. There shall be a 50 foot undisturbed building setback from the Beaver Dam Branch.
7. Approval of the site plan shall be subject to the condition that the excessive removal of trees will be minimized.
8. The construction of the amenities (pool and clubhouse) shall commence at the start of Phase II.

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 findings of fact and recommendations of the Planning and Zoning Commission are incorporated into the record. The Council found that the RPC amendment is appropriate legislation and that it adequately provides for the health, safety and welfare of the present and future inhabitants of Sussex County. The Council bases their findings on testimony and evidence presented by the applicant, agency comments, and the recommendations of the Planning and Zoning Commission. Specifically, the Council found that the RPC amendment is appropriate, based upon the following reasons:

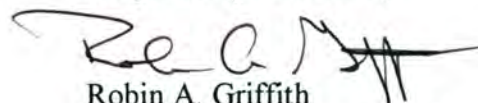
Findings
of Fact
(continued)

1. The change from an 80 condominium RPC to an 80 single RPC is consistent with the purpose of the RPC Residential Planned Community District purposes as specified in Section 115-118 of the Sussex County Code.
2. Section 115-125 of the Sussex County Code requires the proposed development to follow recognized principles of civic design, land use planning and landscape architecture. Civic design is reflected in the density of this proposal being the same as the previous RPC approval of 2 units per acre. No increase in the two units per acre density is being requested even though the 1997 Comprehensive Land Use Plan would permit 4 to 12 dwelling units per acre.
2. The 80 lot development is the same development previously approved for this site as Change of Zone No. 1291. The site plan has been approved and recorded. This request reverts the plan back to that previously approved and the Council incorporates its findings in this decision.
3. The site is immediately adjacent to General Commercial Zoning as originally designated along State Route One. The site is served by the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The site is within the Development District as shown on Figure 3 of the 1997 Sussex County Comprehensive Plan.
4. The site is adjacent to an existing assisted care facility and has internal roadway access to adjacent commercial areas.
5. The proposed plan does not modify or affect the existing entrance approval from the Delaware Department of Transportation. Location of internal roads have been designed to maintain a maximum distance from the Beachfield Subdivision.
6. The developers shall be required to follow the recommendations of the Sussex Conservation District and the Department of Natural Resources and Environmental Control regarding erosion and sedimentation control practices and conservation methods to avoid any adverse impact on Beaver Dam Branch.

M 142 00
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 3:52 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council