

SUSSEX COUNTY COUNCIL, GEORGETOWN, DELAWARE, MARCH 20, 2001

Call to Order The regular meeting of the Sussex County Council was held Tuesday, March 20, 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 145 01 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve
Approve the Agenda, as distributed.
Agenda

Motion Adopted: 5 Yea.

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

M 146 01 A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to approve
Approve the minutes of the March 13, 2001, meeting, as distributed.
Minutes

Motion Adopted: 5 Yea.

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

Corre- Mr. Bayard read the following correspondence:
spondence

GEORGE V. VOINOVICH, UNITED STATES SENATOR, UNITED STATES SENATE, WASHINGTON, D.C.
RE: Letter in response to Mr. Stickels letter regarding the Clean Water Infrastructure Financing Act.

M 147 01
Youth
Activity
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500.00, \$100.00 from each Youth Activity Grant Account, to the Delaware Heritage Commission for the Hands On Heritage Summer Camp.

Motion Adopted: 5 Yea.

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

M 148 01
Building
Code
Appeal
Board
Appoint-
ment

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to reappoint Mr. Brent Workman to the Building Code Appeal Board for a term of four years.

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

1. 2000 International Plumbing Code

I have been notified by Delaware Health and Social Services, Division of Public Health, that they are in the process of promulgating new plumbing code regulations. The Department will be utilizing the 2000 International Plumbing Code with Delaware specific amendments. The Public Hearing for the new regulations will be held on Friday, March 23, 2001, in Room 309 of the Jesse Cooper Building, Dover, Delaware. The meeting will take place at 9:30 a.m.

The new code does include requirements for publicly accessible male and female restrooms in all spaces intended for public utilization where the occupant load exceeds 15 persons. Anyone having any questions regarding the new regulations should contact Chuck Davidson at 856-5496.

2. Airport Meeting

The next regularly scheduled meeting of the Sussex County Airport Committee will be held on Wednesday, April 4, 2001, at the Sussex County Administrative Office Building West Complex located on North DuPont Highway, Georgetown, Delaware, starting at 10:00

Adminis-
trator's
Report
(continued)

a.m. The media, as well as the public, is invited to attend this meeting.

3. Rehoboth Golf Properties, L.L.C. – Change of Zone No. 1420

Please be advised that Rehoboth Golf Properties, L.L.C., application for Change of Zone No. 1420, will be placed on the agenda on Tuesday, March 27, 2001. It was originally anticipated that this would not be put on for a vote until April 3. Public comments will not be taken on this application, as the public hearings have been closed. Council will be presented with the findings from the Planning and Zoning Commission and a list of potential restrictions.

Smoke
Detector
Program

Mr. Shade, Purchasing Director, introduced Lowe's employees David Anderson, Phil Lawrence, and Jerilyn Urban, who were in attendance on behalf of Lowe's Home Improvement Center's Home Safety Council to donate 500 smoke detectors to the County. The County will make these smoke detectors available to the public free-of-charge. This donation by Lowe's to the County is part of a statewide donation of 2,000 smoke detectors.

Automatic
External
Defibrillator/
State
Program

Mr. Stevenson, State Director of Emergency Management Services, was in attendance to donate to a new Automatic External Defibrillator (AED) for the County Administration Building. The AED, which is used to revive victims of cardiac arrest, will be placed in the administration building for use by trained employees in the event an employee or visitor suffers a heart attack. The County currently has 3 employees who are trained to operate an AED; additional County employees have signed up to receive training. Mr. Stevenson reported that it is the goal of EMS to respond to a heart attack victim with CPR within four minutes and with the AED within six minutes. Mr. Stevenon advised Council that the State is providing 366 AED devices throughout the State of Delaware. Thirteen AEDs have been distributed to 11 fire agencies for their First Responder Service; 39 AEDs have been distributed to 16 police departments; and 8 high-traffic public sites in Sussex County have been identified where 18 AEDs will be provided. Mr. Stevenson said that the money for the AEDs came from the State's portion of the tobacco lawsuit settlement and that funding for the AEDs includes training. Following the Council meeting, a demonstration on the use of the AED was provided in the Atrium Area of the County Administration Building.

Lagoon
Liner
Project

Mr. George, District Manager, reported on the bid results for Sussex County Project No. 00-04, Sludge Lagoon Liner Replacement for the South Coastal Regional Wastewater Facility, as follows:

	<u>BIDDER</u>	<u>BID AMOUNT</u>	
		<u>Schedule A Lagoon A</u>	<u>Schedule B Lagoon A&C</u>
Lagoon Liner Replacement Project (continued)	Atlantic Lining Company Robbinsville, New Jersey	\$17,691.00	\$45,854.00
	Harkins Environmental, Inc. Salisbury, Maryland	\$35,000.00	\$75,000.00
	<u>Engineer's Estimate</u>	<u>\$25,000.00</u>	<u>\$55,000.00</u>

M 149 01 Award Lagoon Liner Replacement Project
 A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 00-04 entitled "Sludge Lagoon Liner Replacement" be awarded to the lowest responsive bidder, Atlantic Lining Company, at the Schedule "B" bid amount of \$45,854.00.

Motion Adopted: 5 Yea.

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

Wastewater Facilities
 Mr. Green, Director of Utility Construction, discussed wastewater facilities to be constructed in the Fenwick Island Sanitary Sewer District and the West Rehoboth Sanitary Sewer District.

M 150 01 Authorize Agreements/Wastewater Facilities/Bayville Shore Phase II
 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, Agreement No. 222, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bayville Shore Associates, L.L.C., for wastewater facilities to be constructed in Bayville Shore – Phase II (onsite), 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

M 151 01 Authorize Agreement
 A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 184, that the Sussex

M 151 01
Authorize
Agreement/
Wastewater
Facilities/
Wolfe
Pointe
(continued)

County Council grant Beneficial Acceptance for the wastewater facilities, except for Pump Stations 1 and 2, constructed in Wolfe Pointe, located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Old
Business
(C/Z
No. 1422

Council discussed Change of Zone No. 1422 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 12.0816 ACRES, MORE OR LESS", filed on behalf of Kevin W. Sagers and Laurie, David J. Ennis and Patricia, Wayne E. Vaeth, and Glenda J. Jackson. The Planning and Zoning Commission held a Public Hearing on this application on February 8, 2001; on March 1, 2001, the Commission voted to recommend denial of this application. The County Council held a Public Hearing on this application on February 27, 2001, at which time action was deferred.

Mr. Phillips commented that the County Council has, in the past, supported down-zonings.

M 152 01
Adopt
Ordinance
No. 1437
(C/Z
No. 1422)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1437 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 12.0816 ACRES, MORE OR LESS" (Change of Zone No. 1422) filed on behalf of Kevin W. Sagers and Laurie, David J. Ennis and Patricia, Wayne E. Vaeth, and Glenda J. Jackson.

Motion Adopted: 3 Yea, 2 Abstentions.

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

Findings
of Fact

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

Findings
of Fact
(continued)

1. The applicant established by substantial evidence that the change of zone to a less intense development classification supports the purposes and goals of the Comprehensive Plan and will have no adverse impact of any sort.
2. The findings of fact of the Planning and Zoning Commission are incorporated herein; however, the Commission's recommendation is rejected, since housing types should not form the basis for a decision to change a zoning classification downward.

Attorney Mr. Bayard left the meeting.

Attorney Mr. Schrader, Assistant County Attorney, joined the meeting.

Proposed Ordinances Relating to Subdivisions Council consider three Proposed Ordinances and one Draft Ordinance relating to the notice requirements to be given owners within subdivisions. Public Hearings were held by the County Council on these three Proposed Ordinances on October 12, 1999; May 16, 2000; and November 28, 2000; action was deferred on each date.

The County's current Ordinance requires that developers of subdivisions receive the consent of 100 percent of the subdivision's property owners before proposed changes and alterations can go to public hearing.

It was noted that the Proposed Ordinances originated from a question raised during a Public Hearing held by the Planning and Zoning Commission on an application for a major subdivision. The question was that if an applicant cannot prove that all property owners have been made aware of the amendment or alteration to a subdivision and that the property owners have no objection, that the applicant would not be permitted to proceed with the public hearing process. In addition, it was brought to the County's attention that grammatical errors existed in the current Ordinance.

Mr. Cole expressed concern that the percentage of approval of property owners should be considered instead of deleting the approval requirement altogether.

Councilmembers discussed the fee structure and debated whether the application fee should be increased from \$100 (established in 1982) to \$300 to cover the County's expenses, i.e. advertising and postage.

Mr. Phillips expressed that he felt Council should adopt one of the Proposed Ordinances; that the issue has been on hold for approximately two years and needs to be addressed. Mr. Phillips expressed further that the fee structure should be increased; however, the increase could be accomplished through a separate Ordinance.

M 153 01
Adopt
Proposed
Ordinance

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt the Proposed Ordinance entitled "AN ORDINANCE AMENDING CHAPTER 99, SECTION 13, OF THE SUSSEX COUNTY CODE, RELATING TO THE NOTICE REQUIREMENTS TO BE GIVEN OWNERS WITHIN SUBDIVISIONS PRIOR TO ALTERATION OR ADDITION", introduced on August 3, 1999.

Motion Denied: 3 Nay, 2 Yea.

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

Proposed
Ordinances
Relating to
Subdivisions
(continued)

It was the consensus of Council to instruct Mr. Schrader, Assistant County Attorney, to draft a new subdivision alteration ordinance incorporating the following three issues: (1) including a more appropriate fee structure, (2) eliminating the 100 percent consent requirement and replacing it with a requirement that all property owners be notified of the alteration plans before the plans go through the public hearing process, and (3) including a procedure for minor subdivisions which would permit an "over-the-counter" approval for the consolidation of lots.

M 154 01
Adopt
Proposed
Ordinance

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt the Proposed Ordinance entitled "AN ORDINANCE AMENDING CHAPTER 99, SECTION 13, OF THE SUBDIVISION CODE OF SUSSEX COUNTY, RELATING TO NOTICE REQUIREMENTS TO BE GIVEN TO OWNERS WITHIN SUBDIVISIONS PRIOR TO ALTERATION, RESUBDIVISION, OR ADDITION; REQUIRING THREE-FOURTHS APPROVAL OF PROPERTY OWNERS WITHIN THE SUBDIVISION PRIOR TO PROCEEDING WITH THE HEARING PROCESS; PROVIDING FOR ADDITIONAL STANDARDS FOR DETERMINING APPROVAL OF ALTERATIONS OR ADDITIONS TO SUBDIVISIONS; PROVIDING A FORM FOR NOTICE BY PUBLICATION; AND CREATING A PROCEDURE FOR THE APPROVAL OF MINOR SUBDIVISIONS".

Motion Denied: 5 Nay.

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

M 155 01
Adopt
Proposed
Ordinance

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt the Proposed Ordinance entitled "AN ORDINANCE AMENDING CHAPTER 99, SECTION 13, OF THE SUBDIVISION CODE OF SUSSEX COUNTY, RELATING TO NOTICE REQUIREMENTS TO

M 155 01 BE GIVEN OWNERS WITHIN SUBDIVISIONS PRIOR TO
(continued) ALTERATION, RESUBDIVISION OR ADDITION”.

Motion Denied: 5 Nay.

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

M 156 01 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give
Council- \$500.00 from Mr. Cole’s Councilmanic Account, to the Rehoboth
manic Summer Children’s Theatre for the 2001 season of performances.
Grant

Motion Adopted: 5 Yea.

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

M 157 01 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give
Council- \$300.00 from Mr. Cole’s Councilmanic Account to the Indian River High
manic School Band for the annual band trip.
Grant

Motion Adopted: 5 Yea.

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

M 158 01 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give
Council- \$500.00 from Mr. Rogers’ Councilmanic Account to the Memorial
manic Volunteer Fire Company, Inc. of Slaughter Beach for the July 4th
Grant Celebration.

Motion Adopted: 5 Yea.

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

M 159 01 A Motion was made by Mr. Jones, seconded by Mr. Cole, to give
Council- \$400.00 from Mr. Jones’ Councilmanic Account to the Greenwood Lions
manic Club for the purchase of equipment for the visually impaired for use at
Grant the Greenwood Public Library.

Motion Adopted: 5 Yea.

M 159 01
(continued)

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

M 160 01
Authorize
Executive
Session

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to authorize an Executive Session to be held on Tuesday, March 27, 2001, immediately following the morning session of the County Council meeting for the purpose of discussing personnel issues.

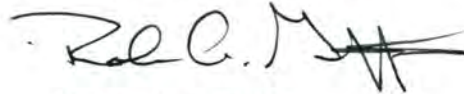
Motion Adopted: 5 Yea.

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

M 161 01
Adjourn

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to adjourn at 11:41 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council