

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 26, 2002

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, March 26, 2002, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Finley B. Jones, Jr.	President
Lynn J. Rogers	Vice President
George B. Cole	Member
Dale R. Dukes	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Dennis Schrader	Assistant County Attorney

M 200 02
Amend
and
Approve
Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to amend the Agenda by deleting "Approval of Minutes" 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. Rogers, Yea;
Mr. Jones, Yea

Correspondence

Mr. Schrader read the following correspondence:

DONALD G. D'AQUILA, D n D SALES, INC., LAUREL, DELAWARE.
RE: Letter to Shane Abbott in appreciation of his assistance with an
agricultural pond application.

Economic Development Slogan Contest Winners

Mr. Stickels announced that two of the winners of the Economic Development Slogan Contest were in attendance. Council recognized Matthew Parsons of Laurel with a \$100.00 savings bond for his winning slogan "*Sussex County is Your Business Partner*". Jasmine Walter of Laurel was recognized with a \$50.00 savings bond for her slogan "*Sussex County-Taxes Are Low, A Good Place To Grow*". Other slogan contest winners who were not present but will receive a \$50.00 savings bond are Candice Evans of Frankford; Robert Short of Laurel; and Jean Cherestal of Laurel.

Delaware Electric Cooperative Progress Report

Mr. Bill Andrews, Vice President of Operations, Delaware Electric Cooperative, reported on the Cooperative's progress and the type and amount of growth that they are experiencing in Sussex County. Mr. Andrews also reported on the Cooperative's strategies for meeting the current and future electrical demand in the rapidly growing unincorporated areas of Sussex County.

**Airport
Terminal
Building/
Conference
Room/
Lease**

Mr. Stickels presented a proposed lease agreement between Sussex County Council and James Tennefoss, d/b/a Jimmy's Flying Grille, for the conference room in the new terminal building at the Sussex County Airport. The annual rent under this lease agreement for the first year will be \$5,544.00, payable in monthly installments of \$462.00 (\$10.00 per square foot). The annual rent under this lease agreement for each subsequent year will be adjusted to reflect any change in the cost of living. The term of the lease is five years.

**M 201 02
Execute
Lease
Agreement/
James
Tennefoss/
Conference
Room in
Airport
Terminal
Building**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the President of the Sussex County Council be authorized to execute a Lease Agreement with James Tennefoss, d/b/a/ Jimmy's Flying Grille, to lease the Conference Room at the new terminal building located at the Sussex County Airport, Georgetown, Delaware.

Motion Adopted: 3 Yea, 2 Nay.

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

**Proposed
State
Police
Contract
for
Additional
Troopers
in Sussex
County**

Mr. Stickels referred to Senator Bunting's and Councilman Phillips' previous request that Council consider the possibility of providing additional police protection in Sussex County. Mr. Stickels advised that he, along with Mr. Baker, has been meeting with the State Police to discuss this possibility. Mr. Stickels proposed an agreement between the Sussex County Council and the Delaware State Police to provide twenty additional troopers in Sussex County on a cost-sharing basis. The proposal would provide for twenty additional troopers to be added over a period of six years. The County would pay the entire cost of \$363,450 for four additional troopers the first year (Fiscal Year 2003). Over the six-year period, the County would pay 69 percent of the costs (\$3,858,932) with the State paying 31 percent of the costs (\$1,741,700).

The twenty troopers will be in addition to the twelve troopers the County already pays for in a (1996) cost-sharing arrangement with the State. Mr. Stickels advised that the twenty additional troopers would increase the number of troopers in Sussex County to 170. Mr. Stickels also noted that, since 1996, the County has purchased 16 vehicles for the State Police.

Secretary of Public Safety James Ford; Senator George Bunting; Mr. Terry Pepper of the Governor's Office; Colonel Aaron Chaffinch; Major MacLeish, and officers and troopers from Troops 4, 5, and 7 were in attendance in support of the proposal.

**M 202 02
Negotiate
Agreement/
State Police**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Council authorizes the County Administrator to negotiate an agreement on a cost-sharing basis for additional State Police for Sussex County, as presented.

**M 202 02
(continued)**

Motion Adopted: 5 Yea.

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

**Adminis-
trator's
Report**

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

1. C/U 1434 – Grady, Inc.

I have included with this report a copy of a memorandum from Brian Page, Historic Preservation Planner, regarding C/U 1434. It is Mr. Page's recommendation that the County Council require the developer to retain a State approved archaeologist to delineate the boundaries of the cemetery prior to the Council voting on approval of this project. Mr. Page also believes that a maintenance and management plan should be developed to ensure long-term protection of this site and that the County should require the developer to relocate the proposed stormwater pond from such close proximity to the site. It is believed that the special nature of the Native American graves in our State and their comparative rarity mark this site as a very significant area.

If there are no objections from the Council, I will place this item on the agenda for discussion on April 9, 2002.

2. Holiday Schedule

Sussex County offices will be closed Friday, March 29, 2002, to allow employees to observe the Good Friday holiday. Offices will reopen on Monday, April 1, 2002, at 8:30 a.m.

There will not be a Council meeting the week of April 2, 2002. The next regularly scheduled Council meeting will be at 10:00 a.m. in the Council Chambers on Tuesday, April 9, 2002.

**Bid
Results/
Kitchen
Equipment
Purchase/
Restaurant
at Airport
Terminal
Building**

Mr. Izzo, County Engineer, reported on the bid results for Sussex County Project No. 02-04, "Kitchen Equipment Purchase", as follows:

T&T, Inc.	\$68,950.00
Bridgeville, Delaware	
Construction Management Service, Inc.	\$74,149.00
Delmar, Delaware	

**Kitchen
Equipment
Purchase
(continued)**

Mr. Stickels advised that the restaurant/leaseholder will be required to: (1) write a check made payable to the County in the amount of \$60,000.00 and (2) pay the \$8,950.00 balance. In addition, the restaurant/leaseholder will be responsible for the installation of the equipment.

**M 203 02
Award
Bid/
Kitchen
Equipment
Purchase**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 02-04, "Kitchen Equipment Purchase", be awarded to T&T, Inc. of Bridgeville, Delaware, at the bid amount of \$68,950.00.

Motion Adopted: 5 Yea.

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

**Tax and
Assessment
Information
on the
County's
Website**

Mr. Eddie Sparpaglione, Acting Supervisor of Information Systems, announced that improvements have been made to the County's website. Tax and assessment information is available and can be searched by property owner name or district map and parcel. Information available will include the billing address, property description, Deed Book information, school district information, assessed values, appraised values, amount of tax bill, and a breakdown of the taxes (County, school and library).

**Trucks
for
Engineering
Department/
Bid**

Mr. Shade, Purchasing Director, reported on bid results for trucks needed by the Engineering Department at the Treatment Facilities.

Engineering Half-Ton 4x4 Pickup Truck

Results

Win Kelly Chevrolet	\$17,826.00
I.G. Burton	\$18,237.15
Willis Chevrolet	\$18,722.00
Hertrich Fleet Services	\$18,735.00
Motors Fleet	\$18,974.00

**M 204 02
Accept
Bid for
Truck**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council accepts the bid of Win Kelly Chevrolet in the amount of \$17,826.00 per unit for one (1) Half-Ton 4x4 Pickup Truck.

Motion Adopted: 5 Yea.

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

**Trucks
for**

**Engineering
Department/
Bid
Results**

Two (2) Half-Ton Pickup Trucks

I. G. Burton	\$15,687.73/unit
Hertrich Fleet Services	\$16,095.00/unit
Willis Chevrolet	\$16,288.00/unit
Motors Fleet	\$16,444.00/unit
Win Kelly Chevrolet	\$17,690.00/unit

**M 205 02
Accept
Bid for
Trucks**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council accepts the bid of I. G. Burton Chevrolet in the amount of \$15,687.73 per unit for two (2) Half-Ton Pickup Trucks.

Motion Adopted: 5 Yea.

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

**Conflict
of Interest**

Mr. Dukes excused himself from the meeting due to a possible conflict of interest with the application of Gary Watson for Subdivision No. 2001-7.

**Public
Hearing/
Appeal/
Subdivision
No. 2001-7/
Gary
Watson**

A Public Hearing was held on an appeal of the Sussex County Planning and Zoning Commission's decision to deny an application of Gary Watson for the subdivision of land in an AR-1 Agricultural Residential Zoning District in Broad Creek Hundred, Sussex County, by dividing 41.86 acres into 37 lots, located north of Road 465, 2,340 feet west of Road 479 (Subdivision No. 2001-7).

This application originally received preliminary approval on January 28, 1999; a revised preliminary approval was granted on February 25, 1999; the Planning and Zoning Commission denied a six-month time extension on March 1, 2001; and the application was voided.

The applicant reapplied and the Planning and Zoning Commission held a Public Hearing on the application for subdivision on May 24, 2001. On June 14, 2001 the Planning and Zoning recommended that the application be denied for the following reasons:

- (1) Concerns about the poultry houses in the area on adjacent parcels.
- (2) Concerns about the project being built.
- (3) Concerns about the present up-keep of the site at this time.

Mr. Watson appealed the Commission's decision and the County Council held a Public Hearing on the appeal on August 28, 2001. On that date, action was deferred pending further review of the record. The County Council discussed the application on December 4, 2001 and remanded the application back to the Planning and Zoning Commission with instructions that the Planning and Zoning Commission provide a more detailed analysis of their reasons for denial.

**Public
Hearing/
Appeal/
Subdivision
No. 2001-7/
Gary
Watson
(continued)**

The Planning and Zoning Commission discussed the application on January 10, 2002 and recommended again that the application be denied based on the following reasons:

1. The proposed 37 lot subdivision does not meet the purpose of the Subdivision Ordinance in that it does not protect the orderly growth of the County because the proposed site is currently devoted to poultry uses, is adjacent to poultry and agricultural uses, and constitutes an intrusion into a primarily agricultural area which is to be given priority and preference because of noise, dust, odors, and the use of chemicals.
2. The proposed 37 lot subdivision does not meet the purpose of the Subdivision Ordinance in that it does not encourage the preservation and conservation of farmland because the land use in this vicinity is primarily agricultural, the application would remove 41.86 acres, more or less, from agricultural use and may encourage further conversion of farmland to development.
3. The proposed 37 lot subdivision does not address the concerns raised in the record of opposition, that is: children's safety in the area; increase in traffic to the area; adverse effect on property values, and no evidence of any need for additional residential development in the area.

The applicant again filed an appeal and the Public Hearing before the Sussex County Council was scheduled for this date.

The County Council found that Gary Watson, applicant, and David Rutt, attorney, were present on behalf of the application. Mr. Rutt stated that this property was approved as a subdivision in 1999; that due to a "procedural snafu", the request for an extension was filed three days late; that the application was denied as being untimely; and that the plan was then resubmitted. Mr. Rutt advised that the new plan is essentially the same as the previously approved plan with the exception of additional foresting buffers and changes to the street and curb design. Mr. Rutt noted that there were no objections from the TAC Committee on the subdivision application and that there were no objections from any agencies.

Mr. Rutt referred to the reasons for the Planning and Zoning Commission's denial of the application. Mr. Rutt stated, in reaching their decision, the Commission ignored certain facts, ordinances, and the 1997 Comprehensive Plan. He stated that the property is in a Development District; on the south and east of the property are residential lots; that the adjacent lot which contains chicken houses is surrounded by housing; that the approved subdivision known as Chipman's Chase is south of the property and that this subdivision is sold out; that, also to the south is Shady Acres, a mobile home park; and that this property is located in an area for sewer and water expansion from the Town of Laurel. Mr. Rutt stated that these facts show that this area is the logical place for development.

**Public
Hearing/
Appeal/
Subdivision
No. 2001-7/
Gary
Watson
(continued)**

Mr. Rutt referred to the Commission's reasons for denial, which included the statement that the site is currently devoted to poultry uses and that it is an intrusion to a primarily agricultural area. Mr. Rutt stated that this statement is contrary to: (1) the intent of the Comprehensive Plan; (2) the purpose of the statute, and (3) the purpose of the ordinance. Mr. Rutt stated that the Commission's comment that the application may encourage further conversion of farmland to development is speculative. Mr. Rutt stated that the Commission's comment regarding children's safety and increased traffic has no factual basis.

Mr. Rutt referred to the seventeen criteria in the Subdivision Ordinance and stated that the criteria has flaws; that any of the criteria can be "arbitrary and capricious"; and that the criteria need to be "tightened up".

Mr. Rutt expressed his opinion that the decision of the Planning and Zoning Commission should be reversed since the findings of the Commission are not supported by the record.

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

**M 206 02
Reverse
Decision**

A Motion was made by Mr. Cole to reverse the decision of the Planning and Zoning Commission on Subdivision No. 2001-7, an application of Gary Watson. The Motion died for the lack of a Second.

**Request
to Defer**

Mr. Phillips and Mr. Rogers expressed that they would like additional time to deliberate on the appeal request.

**M 207 02
Defer
Action on
Appeal/
Subdivision
No. 2001-7/
Gary
Watson**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to defer action for two weeks on the appeal of the Planning and Zoning Commission's decision to deny Subdivision No. 2001-7, an application of Gary Watson.

Motion Adopted: 3 Yea, 1 Abstention, 1 Absent.

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

Mr. Dukes rejoined the meeting.

**Public
Hearing/
Boundary
Extension/
Dagsboro-
Frankford
Sanitary
Sewer
District**

A Public Hearing was held to consider extending the Dagsboro-Frankford Sanitary Sewer District (DFSSD) to include the lands of George Oliver, situate, lying north of Honolulu Road, and being in Dagsboro Hundred, Sussex County, Delaware. Mr. Izzo, County Engineer, discussed extending the boundaries of the Dagsboro-Frankford Sanitary Sewer District to include the 1.1 acre lot with a single family home owned by Mr. Oliver. Mr. Izzo advised that the Sussex County Community Development Office is currently performing work on the property and has discovered problems with the septic system.

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

M 208 02 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt
Adopt Resolution No. R 013 02 entitled "A RESOLUTION TO EXTEND THE
Resolution BOUNDARY OF THE DAGSBORO-FRANKFORD SANITARY SEWER
No. R 013 02 DISTRICT (DFSSD) TO INCLUDE THE LANDS OF GEORGE OLIVER,
 SITUATE, LYING NORTH OF HONOLULU ROAD, AND BEING IN
 DAGSBORO HUNDRED, SUSSEX COUNTY, DELAWARE".

Motion Adopted: 4 Yea, 1 Absent

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

Trucks for Mr. Shade, Purchasing Director, reported on bid results for vehicles needed
Engineering by the Engineering Department at the Treatment Facilities.
Department/
Bid Results

Half-Ton Extended Cab Pickup Trucks

Win Kelly Chevrolet	\$21,180.00/unit
I. G. Burton	\$21,210.30/unit
Hertrich Fleet Services	\$21,494.00/unit
Willis Chevrolet	\$21,742.00/unit
Motors Fleet	\$22,668.00/unit

M 209 02 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex
Accept County Council accepts the bid of Win Kelly Chevrolet in the amount of
Bid for \$21,180.00 per unit for three (3) Half-Ton Extended Cab Pickup Trucks.
Trucks

Motion Adopted: 4 Yea, 1 Absent.

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

Bid Mr. Hudson, Director of Maintenance, SCRWF, reviewed the bid results
Results/ for Sussex County Project No. 02-02, "Electrical Controls Equipment
Electrical Capital Purchase", as follows:
Controls
Equipment

United Electric Company, Inc.	\$257,076.13
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M 210 02 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon
Award the recommendation of the Sussex County Engineering Department, that
Bid/ Sussex County Project No. 02-02, "Electrical Controls Equipment Capital
Electrical Purchase", be awarded to the low bidder, United Electric Company, Inc., at
Controls the bid amount of \$257,076.13.
Equipment

Motion Adopted: 5 Yea.

**M 210 02
(continued)**

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

**Drug Usage
in Sussex
County
and the
State**

Sheriff Reed introduced Tim Richard and Gene Rogers of the United States Drug Enforcement Administration (DEA). A brief overview on drug usage in Sussex County and the State was presented. The briefing included statistics and information on drug activity and trafficking; number of drugs available; prescription drug abuse; and drug-related violence and crimes.

**M 211 02
Council-
manic
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$400.00, \$200.00 each from Mr. Dukes' and Mr. Jones' Councilmanic Accounts, to The Lions Club Foundation for "The Jay's Nest" project (playground).

Motion Adopted: 5 Yea.

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

**M 212 02
Council-
manic
Grant**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$500.00 from Mr. Rogers' Councilmanic Account to the Memorial Volunteer Fire Company, Inc. for their Fourth of July celebration.

Motion Adopted: 5 Yea.

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

Ordinances

There were no Proposed Ordinances for introduction.

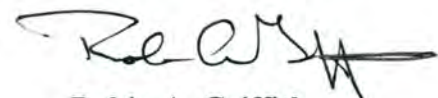
**Citizen's
Comments**

Mr. Kramer, of Greenwood, questioned Council on exceeding its councilmanic funds budget, citing that the audit showed the Council spending \$19,000 more than was budgeted. Mr. Kramer was advised that unspent funds could be carried over from one year to the next.

**M 213 02
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to adjourn at 12:22 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



**Robin A. Griffith
Clerk of the Council**