

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 30, 1999

Call to  
Order

An Executive Session of the Sussex County Council was held on March 30, 1999, at 8:30 a.m. in the Caucus Room of the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, for the purpose of discussing personnel. The Executive Session concluded at 9:35 a.m.

The regular meeting of the Sussex County Council was held Tuesday, March 30, 1999, 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
Dale R. Dukes	Member
George B. Cole	Member
Vance Phillips	Member

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

M 162 99  
Approve  
Agenda

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to approve the Agenda with an amendment to the order of the Agenda upon the arrival of John Carney, Secretary of Finance, State of Delaware, and Representative John Schroeder to discuss a Subsidy Program for Phase III of 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. Rogers, Yea;  
Mr. Jones, Yea

M 163 99  
Approve  
Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the minutes of the previous meeting, dated March 23, 1999.

Motion Adopted: 5 Yea.

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

Corre-  
spondence

Mr. Bayard, County Attorney, read the following correspondence:

DAVID S. SWAYZE, AMERICAN RED CROSS, MILFORD, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

Correspondence  
(con't)

BETTYLOU EVANS, SUSSEX COUNTY VETERANS COUNCIL, LAUREL, DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

JOSEPH R. BIDEN, JR., UNITED STATES SENATOR, WASHINGTON, D.C.

RE: Letter regarding the FY 1999 SuperNOFA published by the U.S. Department of Housing and Urban Development (HUD), the only Notice of Funding Availability released by HUD for the standard housing programs.

CHARLOTTE WILLIAMS, FRANKFORD, DELAWARE.

RE: Letter of appreciation for home improvements made possible by Community Development.

THOMAS R. CARPER, GOVERNOR, STATE OF DELAWARE, DOVER, DELAWARE.

RE: Letter notifying Bonnie Smith, Sussex County Director of Data Processing, of her appointment to the Delaware Year 2000 Contingency Planning and Coordinating Council.

West  
Rehoboth  
Expansion  
of the  
DBSSD/  
Contract 4/  
Holland  
Glade/  
Bid  
Results

Mr. Izzo, County Engineer, discussed bid results for Contract No. 4, Holland Glade, West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Phase III, as follows:

Teal Construction, Inc. Dover, Delaware	\$3,948,948.00
Bunting and Murray Construction Selbyville, Delaware	\$3,952,714.84
L. A. Merrell Construction Sudlersville, MD	\$3,983,623.41

The Engineer's estimate for the project is \$3,583,112.50. The bids will be reviewed for a recommendation to Council.

Sussex  
County  
Project  
No. 99-02/  
SCADA  
Improve-  
ments/  
Phase I/  
Bid Results

Mr. Izzo, County Engineer, discussed bid results for Sussex County Project No. 99-02, "SCADA System Improvements". The SCADA (Supervisory Control and Data Acquisition) System Improvements project was initiated for the purpose of improving the alarm telemetering system of pump stations in the County's sewer districts. The SCADA System will provide a wireless communication alarm system at the pump stations enabling the County to monitor and operate pump stations remotely to correct problems. The ability to operate the pump stations remotely will allow the County to improve service during a storm situation. Currently, the County's telemetering system is a Motorola System. This system needs to be replaced for the following reasons: (1) Motorola is no longer supplying this equipment, (2) the equipment is obsolete and outdated, and (3) the system is not Y2K compliant. Mr. Izzo advised that the SCADA System improvements, if approved, will be installed in phases. Phase I would consist of

SCADA  
Bid Results  
(con't)

the replacement of equipment at twenty of the County's highest priority pump station locations; these twenty pump stations are to be completed prior to January, 2000.

Bids received for the SCADA System Improvements were as follows:

Trijay Systems, Inc.	\$354,820.00
John W. Tieder, Inc.	\$399,180.00

The Engineer's estimate for the project is \$364,850.00. The bids will be reviewed for a recommendation to Council.

Y2K  
Implement-  
ation Plan  
for Sewer  
and Water  
Districts

Mr. Izzo, County Engineer, reviewed a Y2K Implementation Plan prepared by a Committee of the Sussex County Engineering Department. The purpose of the formation of the Committee and development of the Plan was to formulate a strategy to prepare the water and wastewater systems of Sussex County to cope with problems related to the Y2K computer bug. The Committee's in-house assessment has determined that all major equipment and components are Y2K compatible, with the exception of the alarm telemetering equipment. Other major concerns arise from items outside the County's control, i.e. power loss, loss of phone systems. Mr. Izzo discussed action proposed to be taken to prepare for Y2K, as follows:

- Empty all storage lagoons at Treatment Plants.
- Fill all fuel tanks and containers.
- Maintain generators on regular schedule and maintain log of service.
- Service all vehicles during December.
- Inventory and supply emergency and first aid equipment.
- Compile an equipment checklist and stockpile supplies as necessary to operate and maintain facilities under emergency conditions.
- Establish a staffing plan for the period of December 31 through January 5.
- Continue dialogue with suppliers, utility representatives and government officials.
- Begin contract actions to purchase and install generators and related items.

Mr. Izzo stated that Sussex County operates its wastewater treatment plants and sewer districts under Federal and State law through NPDES permits. If the County knowingly chooses to ignore a problem, the County becomes liable for

Y2K  
Implementation Plan  
(con't)

penalties ranging between \$1,000 to \$10,000 per day per violation. This is to say nothing of the costs to the environment and the costs to remediate an occurrence of raw wastewater being placed upon the ground. Although the dangers associated with Y2K are unknown, Sussex County's liability is real. Mr. Izzo advised that the actions and resulting costs proposed within the report overcome this liability. The proposed costs associated with this report will be requested in the FY 2000 budget of the Engineering Department; however, prior approval may be necessary to expedite the ordering of equipment.

West  
Rehoboth  
Sewer  
Grant  
Assistance  
Program

Upon the arrival of John Carney, State of Delaware Secretary of Finance, and Representative John Schroeder, the order of the Agenda was amended for the discussion of a Subsidy Program for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The West Rehoboth Sewer Grant Assistance Program, in the amount of \$50,000, will be funded by the State of Delaware. This program will provide \$100 sewer bill subsidies to qualified low-income residents of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Eligibility for the program will be based on Federal Department of Housing and Urban Development CDBG low-income levels. Eligibility will also be limited to persons with liquid assets of less than \$10,000. Eligible applicants must be the homeowner and full-time residents of their home served by the sewer system. The program will be administered by the County.

Mr. Cole recommended that the County provide grant funding for this program. Mr. Cole's recommendation will be considered during the preparation of the FY 2000 budget.

West  
Rehoboth  
Planning  
Study

Mr. Archut, Assistant County Engineer, requested Council's authorization to perform a Planning Study for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. This Planning Study has become necessary due to the large amount of growth in the West Rehoboth expansion area; this area is the County's largest growing service area and large growth is expected to continue. In addition, the County is receiving requests for annexation from outside the existing boundaries of the district. Concerns that need to be addressed include:

1. Continued growth within the existing boundaries.
2. Annexing areas outside the existing boundaries and the effect on the long term plan for the area.
3. Maintaining adequate capacity for people inside the boundaries following expansion to areas outside the boundaries.
4. Providing for orderly growth outside of the boundaries.
5. Providing an adequate amount of available spray land.
6. Available capacity for ultimate build-out.

West  
Rehoboth  
Planning  
Study  
(con't)

Mr. Archut advised that in order to address the growth and need of the area, the Engineering Department feels a Planning Study is needed. The Planning Study should (1) assess the present development that exists, (2) estimate what the build-out of the area within the district will be, (3) identify sewer capacity deficiencies, (4) establish an ultimate service area, and (5) identify infrastructure needs of the current area and future expansion area. The Planning Study will quantify what is going on in the District and will determine the size of the expansion area outside of the existing boundaries.

A Proposal for this Project has been received by George, Miles & Buhr. The proposed cost is \$136,125.00; this cost will be paid with impact fees received. The Engineering Department has recommended that George, Miles & Buhr perform the study as they are familiar with the existing system and this project is a logical extension of their work within the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 164 99  
Authorize  
Agreement  
with  
GMB for  
West  
Rehoboth  
Planning  
Study

A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the President of the Sussex County Council is authorized to execute an Agreement with George, Miles & Buhr to perform a Planning Study for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, not to exceed \$136,125.00, as presented on March 30, 1999, based upon the recommendation of the Sussex County Engineering Department.

Motion Adopted: 5 Yea.

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

Mill Pond  
Acres

Mr. Green, Director of Utility Construction, discussed the execution of a Construction Administration and Construction Inspection Agreement for wastewater facilities constructed to serve Mill Pond Acres.

M 165 99  
Execute  
Agreements  
for Mill  
Pond Acres

A Motion was made by Mr. Cole, seconded by Mr. Dukes, 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 Anthony Bright for wastewater facilities to be constructed to serve Mill Pond Acres, located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 166 99      A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt the  
Adopt      Proclamation entitled "TUNE OUT TV VIOLENCE ON APRIL 5, 1999 AND  
Proclamation      PUT TELEVISION TO WORK FOR CHILDREN".

Motion Adopted: 5 Yea.

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

Draft      Mr. Stickels, County Administrator, and Mr. Norwood, Supervisor of Mapping  
Ordinance/      and Addressing, discussed a Draft Ordinance entitled "AN ORDINANCE TO  
Renaming      ESTABLISH A PROCEDURE FOR RESIDENTS TO REQUEST THE  
County      RENAMING OF A COUNTY ROAD OR STREET IN THE  
Roads or      UNINCORPORATED AREAS OF SUSSEX COUNTY". The procedure to have  
Streets      a road renamed would include notification of all residents on the road and, if  
                                 possible, signatures of all such residents. A non-refundable application fee in the  
                                 amount of \$100.00, plus \$55.00 per parcel which abuts the road, is to be paid  
                                 with the application. A public hearing on the change will be held. If the  
                                 renaming of the road is authorized, the applicant will be required to pay all costs  
                                 associated with modifying or purchasing required road signs.

Mr. Stickels advised that currently a moratorium exists prohibiting the renaming of roads. Mr. Stickels noted that during the road naming process, over twenty public hearings were held.

Council members expressed concern with the Draft Ordinance and it was the consensus of Council to take it under advisement.

M 167 99      A Motion was made by Mr. Cole, seconded by Mr. Dukes, to extend the  
Extend      moratorium on the changing of road names until June 30, 1999, at which time the  
Moratorium/      road naming project is to be completed.

Changing      Motion Adopted: 5 Yea.  
Road Names

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

Mr. Dukes stated, for the record, that he does not support the Draft Ordinance.

Property Tax      Mr. Stickels, County Administrator, presented for Council's consideration a  
Subsidy      Property Tax Subsidy Program. This program would provide tax assistance to  
Program      residents of Sussex County who have resided in their primary Sussex County  
                                 residence for a minimum of five preceding years. Funding for this program  
                                 cannot be applied for second homeowners. Sussex County taxpayers can apply  
                                 for funding assistance to pay the property tax portion of Sussex County taxes for  
                                 their primary residence. Funding can be applied to the County's portion of

Property Tax  
Subsidy  
Program  
(con't)

property tax, as well as capitation tax. This program does not apply to school taxes or Sussex Conservation District ditch taxes. The amount of funding for this program will be determined each budget year through the public hearing and budget process. Funding assistance will be made available for any single qualified applicant whose annual income does not exceed \$10,400. Funding assistance will be made available for eligible applicants with dependents whose household income does not exceed \$14,400. Funding assistance will be applied to the first \$14,500 of taxable property assessment. Funding assistance can only be applied to current year County taxes. In addition to the income eligibility levels, applicants must not possess more than \$7,500 of liquid assets or real estate other than an owner-occupied home. Funding will be made available on a first-come, first-served basis. The County is anticipating making \$50,000 available. It was the consensus of Council to include the Property Tax Subsidy Program in the FY 2000 draft budget. The FY 2000 budget, when completed and introduced, will be scheduled for Public Hearing.

Adminis-  
trator's  
Report

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

1. Holiday Schedule

Sussex County offices will be closed Friday, April 2, 1999, to allow employees to observe the Good Friday holiday. Offices will reopen at 8:30 a.m. on April 5, 1999. There will not be a Council meeting on Tuesday, April 6, 1999. The next regularly scheduled Council meeting will be on Tuesday, April 13, 1999, at 10:00 a.m. in the Council Chambers on The Circle in Georgetown.

2. 22<sup>nd</sup> Annual Sussex County Prayer Breakfast

The Sussex County Council's 22<sup>nd</sup> Annual Prayer Breakfast will be held on Monday, May 3, 1999, at 7:30 a.m. at Delaware Technical & Community College, Higher Education Building, Georgetown, Delaware. This year's speaker will be Mr. Ken Brown. Mr. Brown is a nationally-appointed Assemblies of God home missionary to the inner city of Washington, D.C. Mr. Brown founded Urban Outreach, Inc., an aggressive street-level ministry program that targets the diversified population of Washington, D.C. Mr. Brown has intensified his efforts by conducting street evangelism using a 24-foot Gospel Truck which features a state-of-the-art automated stage and sound and lighting equipment. In addition to his spiritual guidance, Mr. Brown is also involved with renovating a 12-unit apartment building on the southeast side of Washington, D.C., to assist in the ministry program.

Spiritual music will be provided by the Sussex Tech choral group.

Tickets may be purchased during normal working hours at the County Administrative Office Building on The Circle in Georgetown, Room 129, for a cost of \$10.00 per ticket.

M 168 99 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$550.00 (\$250.00 from Mr. Cole's Councilmanic Account and \$100.00 each from Mr. Dukes' Mr. Rogers' and Mr. Jones' Councilmanic Accounts, to the Long Neck Elementary School for a specially made bike for Mandy Burgess.

Motion Adopted: 5 Yea.

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

M 169 99 Councilmanic Grant A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$200.00, \$100.00 each from Mr. Jones' and Mr. Dukes' Councilmanic Accounts, to the Sussex County March of Dimes for the "WalkAmerica" Campaign.

Motion Adopted: 5 Yea.

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

Intro- duction Mr. Stickels, County Administrator, introduced Richard Cecil, Executive Director of the Delaware Association of Counties. Mr. Cecil was present to join Council for lunch.

M 170 99 Recess At 12:30 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Cole, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Jones called Council back into session at 1:40 p.m.

Public Hearing (C/U No. 1273) 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 AN EXPANSION TO AN EXISTING FIRE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.75 ACRES, MORE OR LESS" (Conditional Use No. 1273) filed on behalf of Roxana Volunteer Fire Company. Comments were heard in support of the application. There were no persons present in opposition to this application. The Public Hearing was closed.

M 171 99 Adopt Ordinance No. 1296 (C/U No. 1273) A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1296 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION TO AN EXISTING FIRE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.75 ACRES, MORE OR LESS" (Conditional Use No. 1273) filed on behalf of Roxana Volunteer Fire Company, with the following condition:

M 171 99  
(con't)

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, 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 enable it to expand its services to the community and make its operations more efficient, without adverse impact of any sort on neighboring properties or the nearby area.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public  
Hearing  
(C/U  
No. 1274)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A 300 FOOT RADIO COMMUNICATION TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.42 ACRES, MORE OR LESS" (Conditional Use No. 1274) filed on behalf of Rehoboth Beach Volunteer Fire Company. Comments were heard in support of the application. There were no comments in opposition to the application. The Public Hearing was closed.

M 172 99  
Adopt  
Ordinance  
No. 1297  
(C/U  
No. 1274)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1297 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A 300 FOOT RADIO COMMUNICATION TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.42 ACRES, MORE OR LESS" (Conditional Use No. 1274) filed on behalf of Rehoboth Beach Volunteer Fire Company, with the following conditions:

1. The tower design and specifications shall be prepared by a Registered Professional Engineer; that it shall be noted on the site plan that the design and specifications of the tower meet all codes; and that the site plan shall be signed and sealed by a Registered Delaware Professional Engineer attesting to the tower design and specifications.

M 172 99  
(con't)

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, 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 enable it to better carry out its mission to the community without adverse impact of any sort on the neighborhood or nearby area.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Public  
Hearing  
(C/Z  
No. 1368)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.05 ACRES, MORE OR LESS" (Change of Zone No. 1368) filed on behalf of Byard B. Layton. There were no public comments and the Public Hearing was closed.

M 173 99  
Adopt  
Ordinance  
No. 1298  
(C/Z  
No. 1368)

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt Ordinance No. 1298 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.05 ACRES, MORE OR LESS" (Change of Zone No. 1368) filed on behalf of Byard B. Layton.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, 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  
(con't)

1. The applicant established by substantial evidence that the change of zone will enable the applicant to expand his mobile home community, presently filled to capacity.
2. The applicant testified that he plans a mobile home park served by central water and sewer, protected by a stormwater management plan and buffers, which will minimize any adverse impact the proposed use may have.
3. The change of zone is consistent with the goals of the Comprehensive Land Use Plan by creating new GR land contiguous to existing GR areas.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public  
Hearing  
(C/Z  
No. 1369)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 49.71 ACRES, MORE OR LESS" (Change of Zone No. 1369) filed on behalf of Ronald Ritthaler and Mark Levy. Public comments were heard in support of this application. There were no comments in opposition to the application and the Public Hearing was closed.

M 174 99  
Adopt  
Ordinance  
No. 1299  
(C/Z  
No. 1369)

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1299 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 49.71 ACRES, MORE OR LESS" (Change of Zone No. 1369) filed on behalf of Ronald Ritthaler and Mark Levy.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, 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 area as it is developing and will have no adverse impact of any sort on the neighborhood or nearby community.

Findings  
of Fact  
(con't)

2. The change of zone is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public  
Hearing  
(C/Z  
No. 1367)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 78.63 ACRES, MORE OR LESS" (Change of Zone No. 1367) filed on behalf of Atlantic Land Company.

Mr. Lank reviewed the record of the Planning and Zoning Commission which conducted a Public Hearing on this application on March 11, 1999. At that time, the Planning and Zoning Commission recommended approval of this application with the following stipulations:

1. The maximum number of units shall not exceed 145 single-family dwellings.
2. The applicants shall comply with DelDOT recommendations and requirements regarding a traffic impact study and road and entrance improvements prior to final site plan approval.
3. The project shall be developed in five (5) phases.
4. No commercial activities shall be permitted, except for a sales office for the project and/or model homes.

Mr. Fuqua, Attorney, advised that the proposal is for the development of the site as a MR-RPC to allow use of smaller lot sizes and that the density will conform to AR-1 density of not more than two units per acre. The applicant is proposing to develop 145 single-family lots with a community center and swimming pool. Mr. Fuqua emphasized that the applicant is not asking for more than what is already permitted in the existing AR zoning. He noted that the design, as proposed, is a better design than a standard subdivision without open space.

Mr. Stickels, County Administrator, recommended that the following stipulations be added:

1. Landscaping and trees shall be completed after ninety percent of each phase is completed.
2. Community Center shall be completed when fifty percent of the project is occupied.

Public  
Hearing  
(C/Z  
No. 1367)  
(con't)

3. Recreation, pool and boat storage areas shall be limited to occupants of subdivision.

There were no public comments in support of the application. Comments were heard in opposition to the application. The concerns expressed by the opposition were mostly traffic and road related. The opposition did not agree with DelDOT's recommendations. Comments made by the opposition revealed that traffic is a concern with all the developments in the area, that road safety is a concern, and that there is no room for walking or biking along Route 274. The opposition is interested in knowing if DelDOT has any long range plans for this road.

Council discussed whether they should take action on this application or defer action for the purpose of obtaining additional information from DelDOT.

It was noted that originally DelDOT recommended a traffic impact study be done by the developer prior to any action on the rezoning application. DelDOT has since determined that subject to certain conditions it may be reasonable for the County to consider rezoning now and postponing the traffic impact study until later in the process.

Several of the Councilmen felt that action should be deferred until additional information is received from DelDOT regarding future plans to improve the safety of Road 274 and to correct traffic problems on Road 274.

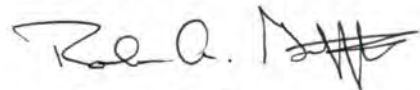
Mr. Dukes expressed his belief that this application will have no effect on the roads. The number of lots developed will be the same if the applicant builds under the current zoning or as a RPC with the change of zone. For this reason, the same number of additional vehicles will be on the road whether or not this application is approved. Mr. Dukes stated that this is a zoning issue and not a road issue.

It was the consensus of Council by a vote of 3 – 2 to defer action for a period of thirty days for the purpose of obtaining additional comments/information from DelDOT. The Public Hearing was closed.

M 175 99  
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 3:55 p.m. Motion Adopted by Voice Vote.

Respectfully submitted



Robin A. Griffith  
Clerk of the County Council