

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 13, 2003

**Call to
Order**

The regular meeting of the Sussex County Council was held Tuesday, May 13, 2003, 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
James D. Griffin	County Attorney

**M 300 03
Approve
Agenda**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the Agenda by deleting the following:

Michael Izzo, County Engineer

1. South Coastal Regional Wastewater Facilities – Expansion No. 2
- A. Contract Amendment No. 3

; and

by changing the order of the Public Hearings beginning at 1:30 p.m., as follows: Conditional Use No. 1493, Change of Zone No. 1500, Change of Zone No. 1501, and Change of Zone No. 1499.

;and, to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

**M 301 03
Approve
Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of May 6, 2003, as distributed.

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. Griffin read the following correspondence:

**LAUREL INTERMEDIATE SCHOOL SIXTH GRADE SCIENCE
TEACHERS, LAUREL, DELAWARE.**

RE: Letter in appreciation of grant.

THE JEFFERSON SCHOOL, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

**CHRISTIAN FELLOWSHIP SOFTBALL LEAGUE, SUSSEX COUNTY,
DELAWARE.**

RE: Letter in appreciation of grant.

**DSHA/
Live
Near
Your
Work
Program**

Fernando Guajardo and Cathy Gregory of the Delaware State Housing Authority were in attendance to ask for the County's participation in the State of Delaware Live Near Your Work (LNYW) Program. The Program is an employer-driven initiative designed to promote home ownership and to increase employee retention. The Program is a cooperative partnership among employers, local jurisdictions and the Delaware State Housing Authority (DSHA), which provides financial assistance to eligible employees who purchase homes near their place of employment. The Program utilizes financial support provided by the State, participating local jurisdictions and employers to offer down-payment and/or closing cost assistance to eligible employees purchasing homes in targeted neighborhoods. Employers will have to provide a minimum of \$1,000 to participate in the program. Employees will be required to contribute an equal amount, plus any other necessary financing for the purchase of their homes.

Mr. Guajardo stated that benefits to employers who participate in the program include (a) an increased savings due to reduction in turnover and recruitment costs (return); (b) a financial incentive for current employees (retention); and (c) a cutting edge tool when competing for talent (recruitment).

Mr. Guajardo stated that the Program supports the Livable Delaware initiative aimed at targeting State Strategies and Spending according to growth management plans. The Program supports the goals of Livable Delaware by reducing commuting time; reducing traffic congestion; and supporting State compliance efforts with the Clean Air Act of 1990.

Mr. Guajardo explained that the program would be initiated in each county starting with Sussex. Georgetown has been identified as the first town to be targeted in Sussex County for participation in the program. Three employers (Eastern Shore Poultry, Co., DeCrane Engineering and Perdue Farms) in Sussex County have already agreed to join the program. Two other companies (WalMart and Harrison House in Georgetown) are in the process of joining. The Program will eventually be expanded and made available to any employer in the State.

**DSHA/
Live
Near
Your
Work
Program
(continued)**

Mr. Stickels noted that the County would benefit from this program since additional tax dollars will be received from residents who move from renting to home ownership and more owner-occupied housing would result in improvements in the surrounding area. Mr. Stickels suggested that the County provide \$1,000 in the unincorporated areas and \$500 within the municipal limits of Georgetown.

Councilmembers expressed concerns about the program:

- Objection to targeting specific communities.
- The reduction of traffic will be minimal.
- It will appear that it is the employer's program and since public funds will create the program, the public should be aware that the County/municipalities are participants in the program.
- Large companies are capable of sponsoring this type of program on their own.
- Criteria should be established such as length of employment; length of residency; that a person can only participate in the program one time; that the funding should be provided as a loan (with security) versus a grant (with no security).
- The public should be allowed to have input on this program.

It was the consensus of Council to defer action and to place the issue on the Agenda for the May 20th meeting. Councilmembers asked that Mr. Griffin draft an agreement for the County's participation in the program. Mr. Stickels asked Mr. Guajardo to provide a copy of the commitment letter and agreement form for the County's review.

**Adminis-
trator's
Report**

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

1. Public Workshop

The Delaware Department of Transportation is holding a public workshop to present information and solicit public comments on proposed improvements to Mulberry Street in the Town of Milton. The workshop will be held on Monday, May 19, 2003, in the H. O. Brittingham Elementary School cafeteria, 400 Mulberry Street, Milton, Delaware. The public is invited to attend between 4:00 and 7:00 p.m.

The proposed improvements along Mulberry Street consist of installing sidewalks, improving drainage, and resurfacing the road between Route 16 and Magnolia Street. Conceptual plans will be presented, as well as photo renderings of the proposed improvements. Public surveys will also be made available in order to solicit public comments.

**Adminis-
trator's
Report
(continued)**

2. FY 2004 Budget

The FY 2004 Budget will be presented on Tuesday, May 20, 2003, at 10:00 a.m. in the Council Chambers during the regularly scheduled meeting. The Budget Committee will review the proposals that will be required to be adopted by June 30, 2003.

A public hearing on the budget will be scheduled for Tuesday, June 17, 2003, starting at 10:15 a.m. in the Council Chambers.

A media presentation is also scheduled for 8:00 a.m. on Tuesday, May 20th, in the Council Chambers.

3. Sussex County's Advisory Committee for the Aging and Adults with Physical Disabilities

The Sussex County Council's Advisory Committee for the Aging and Adults with Physical Disabilities will be held on Monday, May 19, 2003, at 9:00 a.m. at the Sussex County Administrative West Complex, DuPont Highway, Georgetown, Delaware. Included with this report is a copy of the Committee's agenda.

4. 26th Annual Sussex County Council Prayer Breakfast

A reminder that the 26th Annual Sussex County Council Prayer Breakfast will be held on Monday, June 9, 2003. Breakfast will start at 7:30 a.m. at the William Carter Partnership Building, Delaware Technical & Community College, Georgetown, Delaware.

This year's speaker is William (Buddy) W. Farris, Jr., Chief of Police, Dayton, Virginia. He is an award winning 24-year veteran of law enforcement, as well as a world-class athlete. Buddy has shared his personal testimony, "Shadow of Death," with over 1,500 schools, universities, and churches throughout the United States, Jamaica, and Romania.

Tickets may be obtained at a cost of \$12.00 each from the County Council Office during normal working hours or by contacting Carol Lewis at 855-7801.

**Woods
Cove
Expansion**

Mr. Archut, Assistant County Engineer, requested permission to prepare and post notices for the Woods Cove Expansion, an extension of the West Rehoboth Expansion of the Dewey Breach Sanitary Sewer District. The Woods Cove Expansion includes 185 units encompassing 28.35 acres.

**M 302 03
Authorize
Notices/
Woods Cove**

A Motion as made by Mr. Jones, seconded by Mr. Phillips, 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 the Woods Cove Expansion.

M 302 03
(continued)

Motion Adopted: 5 Yea.

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

**Millville/
Holts
Landing
Planning
Study
Update**

Mr. Archut, Assistant County Engineer, advised that a Public Meeting will be held on the Millville/Holts Landing Planning Study Update. The purpose of the meeting is to review the findings of the Millville and Holts Landing Facilities Plan and Environmental Assessment. The Plan examines the feasibility of providing sanitary sewer service to the Town of Millville and the area north of the Town of Millville. Mr. Archut stated that projected costs have been estimated and will be presented at the public meeting, as follows:

- The estimated cost of the project is \$28.2 million.
- The estimated annual cost for a single family home on a 100 front foot lot is \$1,210.
- The estimated impact fee is \$2,300 per home.

Mr. Archut noted that the estimates do not include any grant funding.

Mr. Archut advised that, previously, there was a request from a developer to be included in this study and that the developer funded approximately half of the study for the purpose of looking at the Holts Landing Area. If it is determined to proceed with sewer in the Holts Landing Area, the developer would build some regional facilities, thereby saving the County approximately \$3.5 Million.

Mr. Archut reported that the Public Meeting will be held on Monday, June 2, 2003 at 6:00 p.m. at the Millville Fire Hall.

Mr. Archut advised that copies of the Millville/Holts Landing Planning Study Update have been made available for public review at the South Coastal Library, the Sussex County Engineering Department, and the Millville Town Hall.

Request

Mr. Stickels presented a grant request from Dry Dock, Incorporated.

M 303 03
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$250.00 from Mr. Rogers' Councilmanic Account to Dry Dock, Incorporated to be used for the purchase of a building.

Motion Adopted: 5 Yea.

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

Comments **Mr. Kramer questioned Council on the Delaware State Housing Authority's Live Near Your Work Program.**

M 304 03 **At 11:17 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips,**
Recess **to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **At 1:30 p.m. Mr. Dukes called Council back into session.**

Public **A Public Hearing was held on the Proposed Ordinance entitled "AN**
Hearing **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
(C/U **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE**
No. 1493) **AND WAREHOUSE FOR A HEATING AND AIR CONDITIONING**
 BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND
 LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY,
 CONTAINING 34,740 SQUARE FEET, MORE OR LESS" (Conditional
 Use No. 1493) filed on behalf of Ron and Doneita Witke.

The Planning and Zoning Commission held a Public Hearing on this application on April 24, 2003 at which time they recommended approval with three conditions. Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing. Mr. Abbott's summary and the findings and recommendations of the Commission were admitted as part of the record of this Public Hearing.

The Council found that Mr. Witke was present on behalf of his application and stated that he was not aware of the time limit on his previous application; that his application is for office space and storage area; that an office building will be located in the front and a warehouse will be located in the back; that the site is actually located on the highway; and that trees separate this property from the housing development.

Mr. Cole suggested that additional conditions be imposed requiring that the exterior of the building have a residential appearance and that access to the site be limited to Road 23.

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

M 305 03 **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt**
Adopt **Ordinance No. 1607 entitled "AN ORDINANCE TO GRANT A**
Ordinance **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**
No. 1607 **RESIDENTIAL DISTRICT FOR AN OFFICE AND WAREHOUSE FOR**
(C/U **A HEATING AND AIR CONDITIONING BUSINESS TO BE LOCATED**
No. 1493) **ON A CERTAIN PARCEL OF LAND LYING AND BEING IN**
 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 34,740
 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1493) filed on
 behalf of Ron and Doneita Witke, with the following conditions:

**M 305 03
(continued)**

1. The site plan shall be subject to the review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.
2. One unlighted sign, not exceeding 32 square feet, may be permitted.
3. Outside storage shall be within an enclosed solid fence.
4. Access to the site will only be permitted from Road 323.
5. The office building shall have a residential appearance.

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
(C/Z
No. 1500)**

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.5544 ACRES, MORE OR LESS" (Change of Zone No. 1500) filed on behalf of Herbert Schaefer.

The Planning and Zoning Commission held a Public Hearing on this application on April 24, 2003 at which time they recommended approval that B-1 Neighborhood Business zoning be approved for the original 1.01 acre parcel, which measures approximately 150 feet by 300 feet, and that the remaining 4.54 acres be denied. Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing. Mr. Abbott's summary and the findings and recommendations of the Commission were admitted as part of the record of this Public Hearing.

The Council found that Herbert Schaefer was present on behalf of his application and stated that his daughter proposes to operate a retail clothing and accessories business in the barn; that the barn ambiance would be retained; that no one will live in the carriage building that has been converted into a dwelling; and that he has no problem with the Planning and Zoning Commission's recommendation to limit the rezoning to the 1.01 acre parcel.

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

**M 306 03
Adopt
Ordinance
No. 1608**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1608 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1

M 306 03
Adopt
Ordinance
No. 1608
(C/Z
No. 1500)
(continued)

NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.5544 ACRES, MORE OR LESS” (Change of Zone No. 1500) filed on behalf of Herbert Schaefer, with the rezoning being limited to the 1.01 acre parcel.

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
(C/Z
No. 1499)

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 AN AR-1 – RPC AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 70.03 ACRES, MORE OR LESS” (Change of Zone No. 1499) filed on behalf of Caldera-Indian River II, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on April 24, 2003, at which time they deferred action with the understanding that the record remain open until May 8, 2003 for written comments from State agencies. On May 8, 2003 the Commission reviewed this application under Old Business and deferred action pending a response from DelDOT. Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. Mr. Abbott’s summary was admitted as part of the record of this Public Hearing.

Mr. Abbott reported on the following information received while the record remained open until May 8, 2003:

- A letter from John Hughes, Secretary of the Department of Natural Resources and Environmental Control (DNREC), referencing a meeting of representatives of the State DNREC and the developer to discuss issues raised in the DNREC letter of April 21, 2003 and the Resolutions which were proposed to the mutual satisfaction of both the State of Delaware and the Developer.**
- Vince Robertson, Assistant County Attorney, had a telephone conversation with representatives of DelDOT and he sent a letter to DelDOT for clarification on the right-of-way of Road 346-B. The letter included copies of the court order for the creation of Road 346-B from Road 346 to Indian River. (DelDOT representatives advised Mr. Robertson that the State inventory for Road 346-B only included the existing portion of the roadway.)**

Mr. Abbott reported on additional correspondence received:

**Public
Hearing
(C/Z
No. 1499)
(continued)**

- A letter from Sandra deChurch, President of the Board of Directors for The Greens at Indian River Homeowners Association, regarding a letter sent on April 22nd to the Planning and Zoning Commission stating that the Board of Directors was neither in favor of nor opposed to the Ellis Point RPC; stating that the Association has concerns; asking that their concerns be addressed; and including a statement to be entered into the record regarding the application. In her statement, Ms. deChurch states that the developer has put forth plans that will satisfy the Association's concerns.
- A fax from Guy Rickards of Indian River View Limited Partnership, (owner of an inactive borrow pit on the east side of County Road 346-B) which stated that the Caldera Development is planning on making improvements to Road 346-B and using it as the access road to their development; that currently the road is a dirt road with stones on it; that County Road 346-B is a 60 foot right-of-way by Court Order; that the borrow pit was dug by the State of Delaware; that they had to buy the property back from the State in 1976; that the east side of the 60 foot right-of-way is within inches of the banks of the borrow pit in some spots; that they are not opposed to the new road if it is located in the right-of-way, that the construction should not be allowed to disrupt the banks of the borrow pit; that the developer should not be allowed to have any water drained onto the Rickards property; that paving the road and making it public could cause problems and a liability to Indian River View Limited Partnership; that they already have problems with people dumping trash, fishing and trespassing; and that they request that the developer help protect the public by constructing a security fence between the right-of-way and the borrow pit along County Road 346-B.

The Commission found that Frank Key, Manager of Ellis Point, LLC; James Fuqua, Attorney; Ross Harris of Environmental Consultants International; Jeff Clark of Land Tech, LLC; and Ed Launay of Environmental Resources, Inc. were present on behalf of the application.

Mr. Fuqua stated that the Ellis Point RPC has been designed as a low density, residential planned community; that the property is located at the north end of Road 346B; that the applicant proposes 56 single family detached dwellings arranged in clusters; that the applicant will be responsible for the construction of the road improvements, including drainage and intersection improvements and safety requirements; that the 60 foot right-of-way already exists by virtue of a court order; that the development will maintain its AR density; that the total area of the site is 70.03 acres; that 39.45 acres of the site are State wetlands; that 25.87 acres is the net development area; that there will be no encroachment into either the State or Federal wetlands areas of the site; that there will be no construction on the wetlands nor in the 50 foot buffer; and that the existing vegetation within the planned community will remain in its natural state.

**Public
Hearing
(C/Z
No. 1499)
(continued)**

Mr. Cole asked that the amount of 404 wetlands be calculated and the information provided to Council. Mr. Cole also suggested that a condition be attached to the application, if approved, requiring that the wetlands be maintained in their original state and placed in a conservation easement.

Mr. Fuqua submitted proposed conditions, which included conditions as agreed upon by the Applicant and DNREC.

Public comments were heard in opposition to the application. Guy Rickards spoke and reiterated comments expressed in his letter. Ruth Rickards spoke and expressed concerns about drainage; the dangers of the curve on Road 346B; wildlife; speed limit on Road 346B; and access to the borrow pit.

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

**M 307 03
Defer
Action
on C/Z
No. 1499**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to defer action on Change of Zone No. 1499 filed on behalf of Caldera-Indian River II, LLC and to leave the record open for (1) additional information from DelDOT and (2) additional information regarding the 404 wetlands calculation.

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
(C/Z
No. 1501)**

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.70 ACRE, MORE OR LESS" (Change of Zone No. 1501) filed on behalf of Bethany Beach Development, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on April 24, 2003 at which time they recommended that the application be approved. Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing. Mr. Abbott's summary and the findings and recommendations of the Commission were admitted as part of the record of this Public Hearing.

The Council found that Glenn Prettyman, member of Bethany Beach Development LLC, was present on behalf of the application and stated that a professional office is proposed to be built on the site.

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

M 308 03
Adopt
Ordinance
No. 1609
(C/Z
No. 1501)

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1609 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.70 ACRE, MORE OR LESS" (Change of Zone No. 1501) filed on behalf of Bethany Beach Development, LLC.

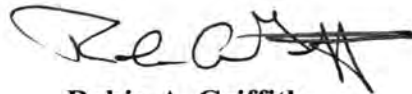
Motion Adopted: 5 Yea.

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

M 309 03
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 3:12 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council