

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 23, 2000

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, May 23, 2000, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

M 250 00      A Motion was made by Mr. Jones, 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. Dukes, Yea; Mr. Jones, Yea;  
                                 Mr. Rogers, Yea

Corre-      Mr. Bayard read the following correspondence: spondence

WILLIAM G. ADKINS, ADKINS INCORPORATED, SELBYVILLE, DELAWARE.

RE: Letter notifying Council that Adkins, Inc., t/a West Fenwick Liquors, intends to file application for a license to sell alcoholic beverages.

WILLIAM AND JESSE WATTENBARGER.

RE: Letter expressing concern over the Savannah East development.

JOSEPH E. MIRO AND MARIA M. MATOS, LATIN AMERICAN COMMUNITY CENTER, WILMINGTON, DELAWARE.

RE: Letter requesting financial support for the production of a video documentary entitled "Latinos in Delaware".

Corre-  
spondence  
(continued)

DURWOOD BENNETT, CHAIRMAN FOR THE EASTERN REGIONAL MAJOR LEAGUE SOFTBALL TOURNAMENT, BETHANY BEACH, DELAWARE.

RE: Letter seeking financial support for the upcoming Eastern Regional Major League Softball Team.

M 251 00  
Approve  
Minutes

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the minutes of the May 16, 2000 meeting, 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

Center  
for the  
Inland  
Bays/  
James  
Farm  
Activities

Mr. Bruce Richards and Mr. Jim Alderman of the Center for the Inland Bays were present to update Council on the improvements and activities at the James Farm (west side) and to request Council to include the east side of the James Farm as part of the original Agreement.

To date, the Center has improved the west side of the property to include marked hiking trails, an observation platform, boardwalk, tree and habitat restoration, a well, fencing, and a landscaped entrance. Other improvements planned include another observation platform, informational displays, and 2,000 additional trees to be planted. If approved by Council, the addition of the east side would include plans for the restoration of the 20 acre open field; a maintained 2 acre parcel available for community activities; trails and access to the marsh via a boardwalk; and an observation/study area to be used for educational programs and the public.

Mr. Alderman stated that the inclusion of the east side would enhance the education component of the James Farm Ecological Preserve and take it to another level. Programs could be developed to study tidal ditches and impoundments, habitat diversity and more extensive marsh studies using the 43 acres of wetlands. The Center would keep the east side a low impact area; it would be planted mostly in trees with approximately 150 feet left open for activities.

This proposal was submitted to Council on October 19, 1999, at which time it was the consensus of Council that the Center for the Inland Bays work on a plan of action for improvements to the east side of the James Farm. This plan was prepared and has been submitted to Council.

It was noted that the Center would abide by the same terms of the original deed restrictions and occupancy agreement.

M 252 00  
Support  
Expansion  
of  
Activities  
at the  
James  
Farm  
(East  
Side)

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council supports the Center for the Inland Bays' expansion of activities to the east side of the James Farm, and further; authorizes the President of the Sussex County Council to execute an amendment to the Occupancy Agreement.

Motion Adopted: 5 Yea.

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

Prime  
Hook  
National  
Wildlife  
Refuge/  
Purchase of  
Property

Mr. Stickels reported that he is in receipt of a letter from the United States Department of the Interior, Fish and Wildlife Service, soliciting comments regarding their plan to add three ownerships totaling 381 acres in Sussex County, to Prime Hook National Wildlife Refuge. The purchase of this property would permanently protect this important wildlife habitat by adding it to the National Wildlife Refuge System. Sussex County would receive payment in lieu of taxes for this property.

M 253 00  
Support  
Purchase  
of  
Property/  
Prime Hook  
National  
Wildlife  
Refuge

A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the Sussex County Council supports the addition of 381 acres to the United States Department of the Interior, Fish and Wildlife Service, Prime Hook National Wildlife Refuge.

Motion Adopted: 5 Yea.

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

Adminis-  
trator's  
Report

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

1. Sussex County Airport FAA Grant

I am pleased to inform the Council that I have been notified by Senator Joseph R. Biden, Jr., that Sussex County will receive a \$200,000 entitlement grant from the Federal Aviation Administration to acquire an emergency generator, airport runway sweeper, and snowplow. The State of Delaware had previously committed \$11,111 for the project. The total project cost is estimated to be \$222,222.

The grant will provide for the installation of an airfield generator to supply emergency lighting for Runways 4-22 and 13-31, as well as Taxiway "A", and necessary lighting and radio equipment. The funding for a vacuum sweeper will provide for the removal of

Adminis-  
trator's  
Report  
(continued)

deicing fluid from apron areas to minimize runoff of fluid onto the infield grass areas and keep the runways free of debris.

With the assistance of federal and State grants, it is anticipated that the County Council will spend \$2.5 million on improvements at the Sussex County Industrial Airpark during FY 2001.

2. National Association of Retired Federal Employees Award

On Wednesday, May 17, 2000, Sussex County employee Bea Wright was honored by the National Association of Retired Federal Employees during their Public Service Recognition Week. Bea has been with the County for nine years and is an Accountant II. Bea does all of the accounting in our water and wastewater districts, including maintaining all of their cash accounts. The County is growing rapidly with new sewer districts and new sewer users which increases the volume of work being done by the Accounting Division. Bea has taken on an increased workload without any additional assistance and has always performed professionally and accurately. She is invaluable to her department and to the County. As County Administrator, I am pleased that she has received this recognition.

Rural  
Development  
Loan/  
Grant  
Application/  
Pinetown

Mr. Baker requested permission to apply for U.S. Department of Agriculture, Rural Development Funding, for a grant and loan for Pinetown, an extension of the West Rehoboth sewer project. This is a low to moderate-income community consisting of approximately 45 homes. Extending sewer service to this area would be an environmental benefit as this area drains into the Martin Branch, which drains into Red Mill Pond. The County will apply for \$670,000 in funding to cover an estimated \$522,000 in construction costs plus \$148,000 in connection fees. The County's goal is to fund the project with as many grant funds and low interest loan funds, as possible; otherwise, the project may not be economically feasible. Additional funding is expected from the State of Delaware Department of Natural Resources and Environmental Control.

M 254 00  
Authorize  
Application  
for Loan  
and Grant/  
Pinetown  
Sewer  
Extension  
Project

A Motion was made by Mr. Dukes, seconded by Mr. Jones, that the Sussex County Council authorizes the County Engineer and County Finance Director to apply to the U.S. Department of Agriculture, Rural Development Agency, for a low interest loan and grant for the Pinetown Sewer Extension Project.

Motion Adopted: 5 Yea.

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

Georgetown  
Treatment  
Agreement/  
Ellendale  
Sanitary  
Sewer  
District

Mr. Archut, Assistant County Engineer, discussed a Proposed Agreement between the Town of Georgetown and the Sussex County Council to provide treatment of wastewater from the Ellendale Sanitary Sewer District at the Town of Georgetown's wastewater treatment plant. The term of the Agreement is 40 years, which coincides with the 40-year loan received from Rural Development for the Ellendale Sewer Project; the Agreement can be terminated upon the mutual agreement of both parties. The initial capacity of the project is 110,000 gallons per day; if necessary, that amount can be increased another 50 percent, or 55,000 gallons per day; total available capacity under the Agreement is 165,000 gallons per day. The total available capacity will cover growth for approximately 20 years at 2% growth; when growth reaches 40%, the Agreement is to be renegotiated with the Town for the purchase of additional capacity.

The costs associated with the Agreement are as follows:

Treatment/Spray Irrigation

1. Initial Capacity – Prorated based on share with \$354,580 cap.
2. Additional Capacity – Purchased based on Georgetown's impact fees.

Pump Station Upgrade(s)

1. Prorated based on flow with \$29,325 cap.

Design Development Report Amendment

1. Actual cost of amendment with \$16,000 cap.

Annual Operations and Maintenance

1. 55% of Town's cost per 1,000 gallons, or
2. \$2.00 per 1,000 gallons minimum.

Mr. Archut reported that the Agreement allows for the County to start discharging as soon as the Ellendale Sanitary Sewer District is completed. The estimated completion date of the District is April 1, 2002.

M 255 00  
Execute  
Agreement/  
Town of  
Georgetown

A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the President of the Sussex County Council is hereby authorized to execute the Agreement between the Town of Georgetown and Sussex County for wastewater treatment for the Ellendale Sanitary Sewer District, as presented on Tuesday, May 23, 2000.

M 255 00  
(continued)

Motion Adopted: 5 Yea.

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

West  
Rehoboth  
Expansion/  
Contract  
No. 3/  
Holland  
Glade/  
Change  
Order

Mr. Izzo, County Engineer, requested approval of Change Order No. 2 for Sussex County Project No. 96-03, Holland Glade, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Phase III. Mr. Izzo reported that three items are included in the Change Order at a total cost of \$13,248.44.

1. Modifications to communications system - \$5,874.50.
2. Fencing upgrades around three pumping stations in - \$2,648.94.
3. Repairs to be made to underground sprinkler system - \$4,725.00.

Mr. Izzo advised that no further change orders are expected other than the balancing change order with the contractor. However, DelDOT is requesting the contractor to upgrade Holland Glade Road; the cost of this upgrade will be paid by DelDOT.

M 256 00  
Approve  
Change  
Order/  
Holland  
Glade/  
West  
Rehoboth  
Expansion/  
Contract  
No. 3

A Motion was made by Mr. Dukes, seconded by Mr. Jones, based on the recommendation of the Consulting Engineer, George, Miles & Buhr, LLP, and the Sussex County Engineering Department, that Change Order No. 2 for Sussex County Project No. 96-03, Contract WIII-3, Holland Glade, be approved in the amount of \$13,248.44, which increases the contract amount from \$3,956,318.00 to \$3,969,566.44.

Motion Adopted: 5 Yea.

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

M 257 00  
County  
Council  
Grants

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$2,000 from County Council Grants to the Latin American Community Center Video for the production of a video documentary.

Motion Adopted: 5 Yea.

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

M 258 00  
Council-  
manic  
Grant

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$1,750.00 (\$400.00 each from Mr. Cole's, Mr. Dukes', Mr. Phillips' and Mr. Rogers' Councilmanic Accounts and \$150.00 from Mr. Jones' Councilmanic Account) to the Delaware District 3 Little League Program for the upcoming Eastern Regional Major League Softball Tournament.

Motion Adopted: 5 Yea.

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

M 259 00  
Council-  
manic  
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$600.00, \$300.00 each from Mr. Phillips' and Mr. Dukes' Councilmanic Accounts, to the Laurel Chamber of Commerce for Laurel's Independence Day Celebration.

Motion Adopted: 5 Yea.

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

M 260 00  
Council-  
manic  
Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$300.00 from Mr. Cole's Councilmanic Account, to Phillip C. Showell Elementary School for the purchase of a sign that will publicize the fact that the school is the recipient of the National Distinguished School Award presented by the National Association of State Title I Directors and the United States Department of Education.

Motion Adopted: 5 Yea.

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

C/U  
No. 1278/  
Silver  
Properties,  
L.L.C.

Mr. Stickels advised Council of a letter received from the law offices of Young, Malmberg, Whitehurst & Curley, P.A. regarding Conditional Use No. 1278 filed on behalf of Silver Properties, L.L.C. Litigation has been pending on this application and the County Council deferred action until a decision was rendered. The courts have ruled in favor of Silver Properties' equitable right in the property. The applicant is now requesting that the application be placed back on the agenda. It was the consensus of Council to place the conditional use application on the June 6th agenda for consideration. Materials relating to this application will be forwarded to the Councilmen prior to the meeting.

C/Z  
No. 1400  
and 1401/  
Olde  
Towne  
Pointe, LLC

Mr. Stickels announced that the comment period for the pending zoning applications of Olde Towne Pointe, L.L.C. (Change of Zone No. 1400 and No. 1401, Village of Five Points Project) will expire on this date at 4:30 p.m. It was the consensus of Council to place the change of zone applications on the June 6th agenda for consideration. Copies of comments received will be forwarded to the Councilmen prior to the meeting.

M 261 00  
Council-  
manic  
Grant

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$300.00 from Mr. Jones' Councilmanic Account to the New Coverdale Outreach Mission, Inc. for the purchase and installation of a stove hood.

Motion Adopted: 5 Yea.

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

M 262 00  
Council-  
manic  
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$300.00 from Mr. Dukes' Councilmanic Account to the Laurel Fireworks Celebration for the July 4th fireworks display.

Motion Adopted: 5 Yea.

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

M 263 00  
Council-  
manic  
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$300.00 from Mr. Rogers' Councilmanic Account to the City of Lewes for the Mayor's attendance at the Small Cities Council Steering Committee Meeting in California.

Motion Adopted: 5 Yea.

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

M 264 00  
Recess

At 11:10 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Jones, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Rogers called Council back into session at 1:30 p.m.

Attorney

Mr. Schrader, Assistant County Attorney, was the attorney present during the afternoon session.

Public  
Hearing/  
C/U  
No. 1333

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 RACE TRACKS – HORSES AND STOCK CARS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 81.84 ACRES, MORE OR LESS (Conditional Use No. 1333) filed on behalf of Alburn, Inc., t/a Sea Coast Speedway.

Mr. Rob Witsil, attorney, and Ms. Williams, applicant, were in attendance to present the components of the proposed project which includes a racetrack for horses and stock cars to be located on 81.84 acres, more or less, lying at the southeast intersection of U.S. Route 113 and Road 321, and the southwest intersection of Road 325 and Road 326. The applicant advised Council that this application is for an expansion of an existing stock car racing facility; that this facility will continue the stock car racing as well as the harness racing if the application is approved; that they will not be reopening the drag strip; and that this application is not for slot machines.

The Planning and Zoning Commission held a Public Hearing on this application on May 4, 2000 at which time they deferred action.

It was noted that two petitions were received in opposition to the project; one of the petitions contained 61 signatures and one contained 168 signatures.

Public comments were heard in support of the application. Comments focused on the fact that there have been many harness racing activities in Sussex County over the years; that harness racing is a highly regulated industry; that the proposed application will have a positive economic impact on the area; and that harness racing is a significantly quieter activity than stock car racing.

Public comments were heard in opposition to the application. Comments focused on the fact that the use is not desirable or beneficial to the area residents; that moving the stock car races to Wednesday night will impact the neighbors; that the applicant proposes to hold horse races on Sundays; that non-point source pollution is a possibility if manure is not handled properly; that the use will change from a 3-month a year business to a year-round business; that para-mutual gambling is not suitable in an AR-1 District; that gambling will weaken the moral fiber of the community; that they are opposed to any proposed slot machines; that property values in the area will be negatively impacted; that gambling addiction is a problem; and that there would be traffic and noise problems.

Public  
Hearing/  
C/U  
No. 1333  
(continued)

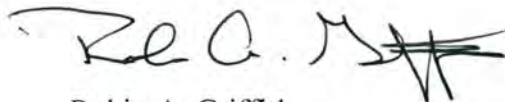
At the conclusion of the Public Hearing, it was noted that there were 11 people present in support of the application and 67 people present in opposition to the application.

The Public Hearing was closed and action was deferred to await a recommendation from the Planning and Zoning Commission.

M 265 00  
Adjourn

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to adjourn at 4:15 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council