

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 3, 2003

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 3, 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 317 03 A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the
Approve Agenda by deleting "Russell Archut, Assistant County Engineer, South
Agenda Bethany Sanitary Sewer District, Lord Baltimore Landing Expansion,
Permission to Post Notices", and to approve the Agenda, as amended.

Motion Adopted: 4 Yea, 1 Abstention.

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

M 318 03 A Motion was made by Mr. Dukes, seconded by Mr. Jones, to amend the
Approve minutes of May 20, 2003, Page 6, Paragraph 3, by deleting "1:33 p.m." and
Minutes substituting therefore "11:33 a.m."

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. Griffin read the following correspondence:
spondence

ROGER AND JOANNE WHITE, BRIDGEVILLE, DELAWARE.

RE: Letter thanking County staff (Tina Rafail, Eddie Parker, and Robert Betts) for their hard work and diligence involving a complaint.

THE SEAFORD REVIVAL CENTER MISSION, INC., SEAFORD, DELAWARE.

RE: Letter in appreciation of grant funding.

Corre-
spondence
(continued)

LAUREL ALUMNI SCHOLARSHIP FOUNDATION, INC., LAUREL, DELAWARE.

RE: Letter in appreciation of grant.

GEORGIA HOUSE, SELBYVILLE, DELAWARE.

RE: Letter thanking Council for supporting the Grand Opening of the Selbyville Georgia House.

THE BETHANY BEACH 4TH OF JULY PARADE COMMITTEE, BETHANY BEACH, DELAWARE.

RE: Letter in appreciation of grant funding.

REHOBOTH SUMMER CHILDREN'S THEATRE, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of grant funding.

Night
Meeting
Schedule
Proposal

Mr. Jones introduced the concept of establishing a schedule for evening meetings. Council discussed holding evening meetings on the third Tuesday of each month beginning at 6:30 p.m. The evening meetings for the remainder of 2003 would be as follows: August 19th, September 16th, October 21st, November 18th, and December 16th. It was noted that Councilmembers frequently have been asked to hold evening meetings and that scheduling these meetings will provide an opportunity to see what the attendance will be. It was suggested that this concept be established on a trial basis and that its continuation be based on its success.

M 319 03
Change
County
Council
Meeting
Schedule

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to change the schedule for County Council meetings so that the County Council meets in the evening at 6:30 p.m. on the third Tuesday of each month, commencing in August.

Motion Adopted: 4 Yea, 1 Nay.

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

Schedule
Proposal
(continued)

Mr. Cole expressed his opinion that the County Council should change its schedule to meet in the evening every week or the schedule should not be changed at all.

Adminis-
trator's
Report

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

1. **Planning Grant**

The Wastewater Facilities Advisory Council awarded the Sussex County Council the maximum allowable Planning Grant of \$100,000 for the South Coastal Area Planning Study Update on Wednesday, May 14, 2003. Whitman, Requardt & Associates anticipate

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

completing this study in May of 2004 at a cost of \$389,000.

2. Relocation of Register of Wills

The Sussex County Register of Wills is relocating from the Sussex County Courthouse to the new Court of Chancery building. The Court of Chancery facility is located on the northeast corner of The Circle in Georgetown, Delaware.

The Register of Wills Office will be closed Wednesday, June 4, through Friday, June 6, 2003. The office will reopen on Monday, June 9, 2003, at 8:30 a.m.

3. Beneficial Acceptance

On May 28, 2003, the Sussex County Engineering Department granted Beneficial Acceptance to Sussex County Project No. 81-04, West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, The Villages of Five Points, R.P.C., Phase VI, Agreement No. 229.

On May 29, 2003, the Sussex County Engineering Department granted Beneficial Acceptance to Sussex County Project No. 81-04, Ocean View Sanitary Sewer District, Winding Waters Subdivision, Agreement No. 217.

Included with this report are summaries of the activities for these projects.

4. In Memory

It is with regret that I inform the Council of the passing of Alice Bruce and Andy Coleman. Ms. Bruce was employed with the County from April 19, 1976, to June 30, 1996, as a Dispatcher at the 9-1-1 Communications Center. Ms. Bruce passed away May 30, 2003.

Mr. Andy Coleman had been employed with the County since June 1, 1988, until the time of his death on June 1, 2003. Mr. Coleman was the Communications Section Supervisor for the 9-1-1 Emergency Operations Center.

**Proposed
Bank
Collateral-
ization
Agreement
Revision**

Mr. Baker presented a proposed change to the County's Bank Collateralization Agreements with Baltimore Trust Company, PNC, Delaware National Bank, Citizens Bank and Wilmington Trust Company. The current agreements require that the banks set aside United States Treasury Bills and Notes that the Bank owns to support County deposits. If a bank defaults, the County could sell the treasury securities to recover the funds. In the past, the County has required direct obligations of the United States Government to be used as collateral.

**Proposed
Bank
Collateral-
ization
Agreement
Revision**

Mr. Baker recommended that the banks also be allowed to provide Government National Mortgage Association (GNMA) securities as collateral. GNMA is a fully guaranteed direct agency of the Federal government. The advantage to the banks is that they can earn a higher interest with GNMA's versus U.S. Treasury bills and notes. Mr. Baker noted that there is no additional risk for the County.

**M 320 03
Authorize
Amend-
ments to
Collateral-
ization
Agreements**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the Sussex County Council authorizes appropriate amendments to the County's Bank Collateralization Agreements to permit banks to provide collateral obligations guaranteed by the U. S. Government, including Treasury Obligations and Government National Mortgage Association (GNMA) Securities, subject to approval by the County Attorney.

Motion Adopted: 5 Yea.

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

**Old
Business/
C/Z
No. 1484**

Council discussed Change of Zone No. 1484 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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.53 ACRES, MORE OR LESS" filed on behalf of Jacqueline M. Hickman & Others.

The Planning and Zoning Commission held a Public Hearing on this application on December 19th, 2002 at which time action was deferred. On January 30, 2003, the Commission recommended approval of the application.

The County Council held a Public Hearing on this application on January 14, 2003 at which time action was deferred.

**M 321 03
Adopt
Ordinance
No 1610
(C/Z
No. 1484)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1610 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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.53 ACRES, MORE OR LESS" (Change of Zone No. 1484) filed on behalf of Jacqueline M. Hickman & Others.

Motion Adopted: 5 Yea.

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

**Old
Business/
C/Z
No. 1487**

Council discussed Change of Zone No. 1487 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 138.78 ACRES, MORE OR LESS” filed on behalf of Caldera Properties.

The Planning and Zoning Commission held a Public Hearing on this application on January 30th, 2002 at which time action was deferred. On March 13, 2003, the Commission recommended approval of the application.

The County Council held a Public Hearing on this application on March 25, 2003 at which time action was deferred for the submission of an alternative plan.

Mr. Lank reported that on April 8th, he sent a memo to Council making reference to the alternative site plan and a narrative summary of the site plan. On May 2nd, he sent Council copies of all comments received in reference to the alternative site plan.

**M 322 03
Adopt
Ordinance
No. 1611
(C/Z
No. 1487)**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1611 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 138.78 ACRES, MORE OR LESS” (Change of Zone No. 1487) filed on behalf of Caldera Properties, with the following conditions:

- 1. The maximum number of dwelling units shall not exceed 161.**
- 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT’s determination.**
- 3. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first building permit. These amenities shall include a swimming pool, pool house, tennis courts, sidewalks on at least one side of all streets, trees between all streets and sidewalks, and street lighting**
- 4. The development shall be served by a private on-site central sewer system as defined by the Sussex County Zoning Ordinance, designed in accordance with Sussex County Engineering Department (Ordinance 38) specifications so that it can be connected and tied into the County Sewer System as that system expands. The private central sewer system shall also be constructed in conformity with all DNREC regulations.**

**M 322 03
(continued)**

5. The MR-RPC shall be served by a public central water system providing adequate-drinking water and fire protection as required by applicable regulations.
6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, using the best management practices with regard to the construction and maintenance of these features.
7. Site plan review for each phase of development shall be subject to approval of the Planning and Zoning Commission.
8. The interior street design shall be in accordance with or exceed Sussex County street design requirements.
9. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
10. No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.
11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur during the hours of 7:00 a.m. and 6:00 p.m.
12. State and Federal wetlands shall be maintained as non-disturbance areas, except for disturbance authorized by a valid Federal or State permit. There shall be no construction in any wetlands without valid permits.
13. Approval shall be based on the Alternative Site Plan submitted by the applicant and received by the County on April 4, 2003.
14. A Conservation Easement restricting tree clearing in the area designated as the forested buffer shall be subject to the review and approval of the County Attorney.
15. Road Naming and Addressing shall be subject to the review and approval by the Mapping and Addressing Department.

Motion Adopted: 4 Yea, 1 Nay.

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

**Old
Business/
C/Z
No. 1496**

Council discussed Change of Zone No. 1496 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 354.17 ACRES, MORE OR LESS” filed on behalf of Palisades Land, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on March 27th, 2002 at which time action was deferred. On May 8, 2003, the Commission recommended that the application be denied.

The County Council held a Public Hearing on this application on April 15, 2003 at which time action was deferred.

It was noted that the primary concern and the topic that generated most of the questions at the Public Hearings was the on-site wastewater treatment system and that the County does not have any plans for sewer service to this area in the near future.

It was the consensus of Council that if this application is approved, a stipulation should be placed on the approval requiring connection to County sewer, when available.

Mr. Phillips also questioned whether the type of housing was a concern. He stated that he has heard from some of his constituents that condos and townhouses are not compatible with the area. The other councilmen replied that their main concern was sewer service.

**M 323 03
(Failed)**

A Motion was made by Mr. Phillips to restrict the development to single family homes. The Motion failed for the lack of a second.

**M 324 03
Adopt
Proposed
Ordinance
(C/Z
No. 1496)**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 354.17 ACRES, MORE OR LESS” (Change of Zone No. 1496) filed on behalf of Palisades Land, LLC., with conditions.

Motion Denied: 3 Nay, 2 Yea.

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

**Reasons
for
Denial**

The Council found that the change of zone would not be appropriate legislative action based on the fact that (1) the project is out of character with the area and (2) sewer infrastructure is not available.

**Public
Hearing/
Appeal/
Subdivision
Application
of Sussex
Ventures**

A Public Hearing was held on an appeal of the Sussex County Planning and Zoning Commission's decision to deny an application of Sussex Ventures for the subdivision of land in an AR-1 Agricultural Residential Zoning District in Indian River Hundred, Sussex County, by dividing 76.44 acres into 64 lots, located south of Road 297, 2,930 feet west of Route 30.

The Council found that John Sergovic, Attorney; Bill Stevens of Stevens Environmental, Inc.; and Don and Drew Ward, applicants, were present. Mr. Sergovic stated that three of the four reasons (loss of farmland, length of street, and single entrance) for denial mirror the concerns raised previously in a denial of Subdivision Application No. 2001-2. This earlier denial was the subject of an appeal to the County Council on July 10, 2001. On July 31, 2001, it was the decision of the County Council that the Planning and Zoning Commission's decision of denial be reversed since the Commission failed to state significant reasons to justify denial. Mr. Sergovic stated that on the most recent denial, the only new reason for denial regards flooding, poor drainage, erosion, sedimentation, and increased rates of runoff and the potential for pollution of surface water and groundwater. Mr. Sergovic stated that the new application fully addresses stormwater management conditions as they affect the proposed subdivision lots and road systems and provides for adequate controls. Mr. Sergovic reported that an intensive study was performed on the drainage in the area and the study resulted in the fact that there would be no problem with stormwater management and if there were a problem, it would have to do with some existing inadequate culverts on Route 297 which were installed by DelDOT that the applicant has no control over.

Mr. Sergovic submitted a complete and detailed booklet in support of the subdivision application (the same booklet submitted to the Planning and Zoning Commission). A map was also shown depicting thirteen other subdivisions that are in the same classification as Country Meadows – in the AR-1 Agricultural Residential District, but not in the Development District, under the 1997 Comprehensive Plan. It was noted that nine of the subdivisions have been approved in the last eighteen months.

Mr. Sergovic stated that there is not anything in the Subdivision Ordinance that addresses length of road nor is there anything in the Ordinance that is a basis for rejecting a subdivision because it only has a single entrance. Mr. Sergovic stated that many subdivisions have single entrances.

Mr. Sergovic also presented to Council a transcript of excerpts of a Public Hearing held on December 19, 2002 before the Planning and Zoning Commission on the matter of Sussex Ventures' subdivision application. Mr. Sergovic referred to Commissioner Johnson's comments on Page 4 of the document that "I've reviewed the plan and also I reviewed the problems we had before, and I think you pretty well covered things."

**Public
Hearing/
Appeal
(continued)**

Mr. Stevens of Stevens Environmental, Inc. stated that his firm performed a hydrologic and hydraulic evaluation of the sub-watershed and associated drainage way (Mt. Joy Ditch). The purpose of the study was to analyze the existing conditions and to determine the potential impact of the proposed development on the existing flooding problem. Mr. Stevens reviewed the findings of the study: the proposed development will have no impact whatsoever on flooding conditions on the north side of Morris Mill Road; the proposed development will improve downstream conditions by reducing the volume of runoff, peak flows, and by improving stormwater quality; erosion and sedimentation will be reduced by stabilization of the existing agricultural field and Mt. Joy Ditch with grasses and other vegetation, etc.

Mr. Ward told Council that the application is for a permitted use; that it is not a request for rezoning; that there is no sufficient evidence for denial; that DelDOT has no concerns about project; that DNREC believes that the proposed lands of Country Meadows residential subdivision would be feasible under current regulations governing the design, installation, and operation of on-site wastewater treatment and disposal systems; and that Soil Conservation has no concerns about the project.

Mr. Sergovic concluded by stating that the Commission has applied the Subdivision Ordinance in an inconsistent manner and has disregarded expert testimony.

Public comments were heard. Ms. Gay Moore, a resident on Road 297 and representative for the Mt. Joy Citizens for Responsible Growth, stated that that the area is primarily farmland; that farmland needs to be protected; that the entrance to the subdivision will be close to a curve in the road and numerous accidents already occur; that emergency vehicles need safe accessibility; that flooding and poor drainage is a problem in the area; that a feasibility study performed by the Coastal Soil Consultants states that “the water levels below ground call for more than standard septic systems”; that the National Resource Conservation Services states that this parcel of land is well suited for large commercial and industrial development and is less suited for residential use; and that erosion and sedimentation are a concern. Ms. Moore entered into the record the same booklet of information she provided to the Planning and Zoning Commission. Mr. Keith Timmons also spoke on the flooding and drainage problems in the area.

The Public Hearing was closed.

**M 325 03
Defer
Action
on Appeal
of Sussex
Ventures**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action and to leave the record open until Tuesday, June 10, 2003 at 4:30 p.m. for additional information from the opposition (in writing) and thereafter, the record is to remain open until Tuesday, June 17, 2003 at 4:30 p.m. for the applicant to review and respond to any written comments received.

Motion Adopted 5 Yea.

**M 325 03
(continued)**

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

**Medal of
Merit
Award**

Sheriff Reed announced that Chief Deputy Kirk Pope was the recipient of the Medal of Merit awarded by the National Sheriff's Association. Deputy Pope was recognized for his contributions to the Sussex County Sheriff's office. Councilman Rogers and Sheriff Reed presented the award to Deputy Pope.

**Budget/
Expansion
Proposal/
Sheriff's
Office**

Sheriff Reed presented a Budget Expansion Proposal for consideration at the June 17, 2003 Public Hearing on the Fiscal 2004 Budget. The proposal calls for the Sheriff's office to provide law enforcement services to Sussex County. Sheriff Reed assured Council that the purpose of the proposal is not to take the place of what the State Police are doing; it is for the purpose of supplementing their services. The proposal calls for expanding the Sheriff's Department to 45 road deputies by FY 2006.

The Sheriff noted that the expenses in the proposal have been overstated and the revenue has been understated. The proposal includes plans to increase patrols in unincorporated areas in the County and to add satellite facilities in the Roxana, Long Neck, Laurel, and Lincoln areas.

County Council members as well as the County Administrator and Finance Director expressed concern about the Sheriff's proposal. Comments referred to the long term costs of such an expansion and its effect on the County's budget; the loss of additional State Police Officers in the County; that the projections in the proposal are not accurate; the cost of insurance; and the fact that the Sheriff has previously stated that he had no intention of creating a County police force.

Sheriff Reed stated that this would be a "cheaper alternative to provide additional policing in the County". He asked that Council consider the proposal for a vote on June 17th.

**M 326 03
Recess**

At 1:30 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess for lunch. Motion Adopted by Voice Vote.

Reconvene

Mr. Rogers called Council back into session at 1:50 p.m.

**SCRWF/
Expansion
No. 2/
Contract
Amendment**

Mr. Izzo, County Engineer, discussed an Amendment No. 3 to an Agreement with Stearns & Wheler, LLC for Expansion No. 2 of the South Coastal Regional Wastewater Facility for design and bid-phase services. Mr. Izzo advised that a Planning Study has been completed for the expansion of the capacity of the South Coastal Wastewater Facility from an average daily flow of 6 million gallons per day to 9 million gallons per day; also, the expansion would accommodate a peak flow of 15 million gallons per day. The construction of the proposed upgrade in Phase 2 is estimated at \$12.3 million. The amount of the contract amendment is \$916,000.

M 327 03
Approve
Amendment
to Contract
for SCRWF
Expansion
No. 2

A Motion was made by Mr. Jones, seconded by Mr. Cole, based upon the recommendation of the County Engineering Department, that Amendment No. 3 to the Agreement with Stearns & Wheler, LLC be approved to provide design and bid-phase services for the treatment portion of Expansion No. 2 to the South Coastal Regional Wastewater Facility.

Motion Adopted 5 Yea.

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

Oak
Orchard
SSD/
Contract
Amendment

Mr. Izzo presented a Proposed Contract Amendment (No. 2) with Cabe Associates for the Oak Orchard Sanitary Sewer District. The Amendment, at an approximate cost of \$1.1 Million, consists of three items:

- **Increase in design fees.**

The original design contract was in the amount of \$340,000. The contract was split into four separate contracts and therefore, more costs were incurred. Other costs involved pump station sites and the incorporation of a common County spec. These changes increased the design fees to \$390,000.

- **Increase in archaeological and historical investigation costs.**

The scope of work in the original contract was valued at \$65,000. A Phase 2 evaluation had to be performed in the area of the pump station adjacent to the Oak Orchard Fire Station. Archaeological and historical investigations were performed at the two additional pump station sites. Also, additional work was required at River Road to evaluate the historic and prehistoric remains. These changes increase the archaeological and historical investigation costs to \$214,000.

Mr. Izzo noted that this amount does not include resolving the issue of the historic finds/remains in the middle of River Road. The State Historic Preservation Office estimates that costs could run \$200,000 to \$300,000. Mr. Izzo advised that he will be reviewing all alternatives of extending sewer without impacting this area.

- **Construction and inspection costs.**

Costs are valued at \$496,000.00, which will cover all four contracts.

M 328 03
Approve
Contract
Amendment
OOSSD

A Motion was made by Mr. Jones, seconded by Mr. Cole, based upon the recommendation of the County Engineering Department, that Amendment No. 2 with Cabe Associates of Dover, Delaware be approved to accommodate increased design and archaeological/historic preservation costs and construction administration for the four construction contracts of

M 328 03 **the Oak Orchard Sanitary Sewer District.**
(continued)

Motion Adopted **3 Yea, 2 Nay.**

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

Milton **Mr. Izzo discussed the Milton Library Expansion and the contract with**
Library **Weymouth Architects for Construction Administration and the technical**
Expansion/ **design issues that occur during construction. Weymouth Architects does**
Contract **not provide the day-to-day inspection services. The Engineering**
Agreement **Department solicited prices from local firms to provide this service. Three**
 prices were received, the lowest of which was Materials Testing Inc. of
 Dover, Delaware in the amount of \$25,000.

M 329 03 **A Motion was made by Mr. Jones, seconded by Mr. Cole, based upon the**
Approve **recommendation of the Engineering Department, that an Agreement for**
Agreement **Inspection Services for construction oversight for Sussex County Project**
for Milton **No. 00-02, Milton Library Expansion, be executed with Materials Testing,**
Library **Inc. at a not to exceed amount of \$25,000.00.**
Expansion

Motion Adopted **5 Yea.**

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

Bid Results **Mr. Izzo reported the following bid results for Sussex County Project No.**
for Holt's **03-02, Bay Colony and Fairway Villas Collection and Conveyance System**
Landing **Improvements:**
Collection

and **David A. Bramble, Inc.** **\$627,770.00**
Conveyance **Chestertown, MD**

System **Bearing Construction** **\$639,989.50**
 Sudlersville, MD

Mr. Izzo advised that improvements will be made to the existing system that
the County bought from Utility Systems, Inc.

M 330 03 **A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the**
Award **recommendation of the Engineering Consultants, Whitman, Requardt and**
Bid for **Associates, LLP, and the Engineering Department, that Sussex County**
Holt's **Project No. 03-02 "Bay Colony/Fairway Villas Collection and Conveyance"**
Landing/ **be awarded to David A. Bramble, Inc. of Chestertown, Maryland, at the bid**
Collection & **amount of \$627,770.00, contingent upon the receipt of approval from the**
Conveyance **Delaware Department of Natural Resources.**

**M 330 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**

**Bid
Results/
AS400
Computer
Upgrade**

Mrs. Smith, Director of Data Processing, reported on the bid results for the AS400 Computer Upgrade, as follows:

Black Oak, Inc.	\$ 93,294.72
Callaghan Quinn Associates, Inc.	\$100,510.28
B. Donald Kimball, Inc.	\$101,754.00
IBM Direct	\$116,663.00

The bids will be reviewed for a recommendation to Council on June 10, 2003.

**Grant
Request/
Punkin
Chunkin
Association**

Mr. John Collier, Chairman, Public Grants Committee, World Championship Punkin Chunkin Association, asked Council for a \$5,000 grant for the 2003 event. Mr. Collier was advised by Council to submit a formal request to be considered on June 17th during the Public Hearing on the FY 2004 Budget.

**Grant
Requests**

Mr. Stickels presented grant requests for Council's consideration.

It was noted that a grant request has already been approved for the Beach and Bay Cottage Tour sponsored by the Friends of the South Coastal Library.

**M 331 03
Council-
manic
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$1,000.00, \$250.00 each from Mr. Dukes', Mr. Jones', Mr. Phillips', and Mr. Rogers' Councilmanic Accounts, to the Dagsboro Church of God for "Celebration of our Nation".

Motion Adopted 5 Yea.

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

**M 332 03
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$300.00, \$150.00 each from Mr. Jones' and Mr. Rogers' Councilmanic Accounts, to the Leukemia Race for Life in sponsorship of the American Bicycle Association's Bicycle Motor Cross (BMX) Race Fundraiser.

Motion Adopted 5 Yea.

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

**M 333 03
Council-
manic
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$500.00 from Mr. Dukes' Councilmanic Account to the Nanticoke Riverfest for the 2003 event.

Motion Adopted 5 Yea.

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

**M 334 03
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Cole's and Mr. Phillips' Councilmanic Accounts) to the OM (Odyssey of the Mind) Boosters, Indian River School District, for students' travel expenses.

Motion Adopted 5 Yea.

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

**Old
Business
(C/Z
No. 1502)**

Council discussed Change of Zone No. 1502 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 72.18 ACRES, MORE OR LESS" filed on behalf of DOC Properties, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on May 8, 2002 at which time action was deferred. On May 22, 2003, the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on May 20, 2003 at which time action was deferred.

**M 335 03
Adopt
Ordinance
No. 1612
(C/Z
No. 1502)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1612 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 72.18 ACRES, MORE OR LESS" (Change of Zone No. 1502) filed on behalf of DOC Properties, LLC, with the following conditions:

1. The maximum number of dwelling units shall not exceed 70. These

M 335 03
(continued)

- shall all be single family detached homes.
2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determination.
 3. The development shall be served by a private on-site central sewer system as defined by the Sussex County Zoning Ordinance designed in accordance with Sussex County Engineering Department specifications per Ordinance No. 38. The private central sewer system shall also be constructed in conformity with all DNREC regulations.
 4. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.
 5. Site plan review for development shall be subject to the approval of the Planning and Zoning.
 6. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications.
 7. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
 8. No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.
 9. Construction, site work, grading, and deliveries of construction materials, landscape materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.
 10. The applicant shall provide access to the small cemetery that exists adjacent to the south side of the property. One parking space shall be provided for visitors to the cemetery.
 11. Road naming and addressing shall be subject to the approval of the Mapping and Addressing Department.
 12. The borrow pit shall be made safe and shall meet the shelving requirements for borrow pits, with approval from applicable agencies.
 13. Streetlighting shall be provided.

Motion Adopted 5 Yea.

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

**Old
Business
(C/U
No. 1488)**

Council discussed Conditional Use No. 1488 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (171 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 29.81 ACRES, MORE OR LESS” filed on behalf of Vaughn Melson and Alfred Melson.

The Planning and Zoning Commission held a Public Hearing on this application on March 27, 2002 at which time action was deferred. On April 10, 2003, the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on April 15, 2003 at which time action was deferred.

Mr. Lank, Director of Planning and Zoning, reported that the Commission recommended approval of the application subject to 14 conditions with the maximum number of residential units to be 143 units, based upon the County Engineering Department’s determination of the available wastewater capacity for this parcel.

**M 336 03
Amend
Condition
No. 1
Recom-
mended
by the
P&Z
Commission
(Denied)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend Condition No. 1 recommended by the Planning and Zoning Commission from “The maximum number of residential units shall not exceed 143 units...” to “The maximum number of residential units shall not exceed 171...”

Motion Denied: 3 Nay, 2 Yea.

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

**M 337 03
Adopt
Ordinance
No. 1613
(C/U
No. 1488)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1613 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (171 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 29.81 ACRES, MORE OR LESS” (Conditional Use No. 1488) filed on behalf of Vaughn Melson and Alfred Melson, with the following conditions:

- 1. The maximum number of residential units shall not exceed 143 units, based upon the County Engineering Department’s determination of the available wastewater capacity for this parcel.**
- 2. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance**



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

**Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (52 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.07 ACRES, MORE OR LESS” (Conditional Use No. 1507) filed on behalf of North Beach, LLC. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT FOR EXTRACTION AND REMOVAL OF SOIL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 86.74 ACRES, MORE OR LESS” (Conditional Use No. 1508) filed on behalf of Ray Lewis. The Proposed Ordinance will be advertised for Public Hearing.

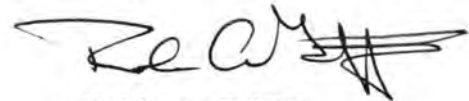
**Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 37.362 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1518) filed on behalf of Theresa E. Murray, Trustee.

**M 338 03
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to adjourn at 2:52 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council