

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 4, 2002

**Call to
Order**

The regular meeting of the Sussex County Council was held Tuesday, June 4, 2002, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**M 357 02
Approve
Agenda**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the Agenda, as presented.

Motion Adopted: 5 Yea.

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

**M 358 02
Approve
Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the minutes of May 21, 2002, as distributed.

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 read the following correspondence:

**MILFORD MIDDLE SCHOOL, ODYSSEY OF THE MIND TEAM,
MILFORD, DELAWARE.**

RE: Letter in appreciation of grant.

**Delmarva
Christian
School**

Mr. Robin James and Mr. Scott Kemmerlin gave a presentation on the Delmarva Christian School. The Delmarva Christian School is a tuition-based private Christian school which will be open to Grades 9 – 12. In addition to a college preparatory curriculum, the school will also offer technical trade courses in areas such as criminal justice, agriculture, and food and health services. The school plans to open in the Fall of 2003.

**Seamless
Sussex
County
Parcel
Map/
State of
Delaware
GIS Grant
Assistance
Program**

Mr. Alan Thompson of Thompson Mapping Systems Incorporated, presented a proposal to create a Seamless Digital Sussex County Parcel Mapping System. Mr. Thompson advised that the Delaware Agricultural Lands Preservation Foundation recently authorized a seamless Sussex County Parcel Map to be created by Thompson Mapping Systems (TMS) from existing individual digital files created by Sussex County. The primary reason for creating the seamless Sussex County parcel map was for use in GIS analyses and for incorporation into the Foundation's existing SmartMAP Web Site which already has Kent County and New Castle County parcel data. Mr. Thompson advised that now that the basic parcel layer has been created, a mechanism for updating and keeping it current must be established. The originals that the map was made from were dated August 1998, so approximately three years worth of updates need to be accomplished to bring the maps up to date.

Mr. Thompson also reported that the maps must be edited and further refined so that they can serve as the primary parcel maps for Sussex County, thereby creating a complete and comprehensive parcel mapping system for Sussex County. This proposal is to create an automated state of the art seamless parcel mapping system for Sussex County which will at the same time provide constantly updated parcel maps for use in State and County GIS programs.

The total cost of the system will be \$150,000. Ms. Connie Holland, Office of State Planning, presented a proposed funding package, as follows: \$50,000 to be paid by the County with the State of Delaware providing the remaining \$100,000 in funding as part of the State's GIS Grant Assistance Program.

The new system will provide one seamless map of the County and County staff and the general public will be able to access the County's mapping databases over the internet.

**M 359 02
Execute
Agreement/
State of
Delaware
GIS Grant
Assistance
Services**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, authorizing the Sussex County Administrator to execute an Agreement with the State of Delaware for GIS Assistance Services in an amount not to exceed \$50,000.

Motion Adopted: 5 Yea.

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

**Manu-
factured
Home
Demolition
Program**

Mr. Ira Hitchens and Mr. Bob Betts of the Constables Office updated the Council on the Manufactured Home Demolition Program, a program entered into with the First State Manufactured Housing Association. Mr. Hitchens advised Council that 53 abandoned manufactured homes have been cleaned up and removed since October 2001. Mr. Hitchens further advised that he is working with 30 more clients on demolishing 31

**Manu-
factured
Home
Demolition
Program
(continued)**

additional manufactured homes in the County. Mr. Stickels advised that the First State Manufactured Housing Association gave the County \$8,000 last year for this program and have now committed to provide another \$8,000 in January, 2003. As part of the program, financial assistance is provided to individuals with repayment schedules established.

Mr. Baker commented that the Constable's Office has also been working on collecting property taxes from owners of manufactured homes that are delinquent.

Mr. Rogers stated that the County Council should review the ordinances defining the fine structure and violation process for dilapidated manufactured homes and properties.

**Slam Dunk
to the
Beach
Funding
Request**

Mr. Robert Jacobs, founder of the Slam Dunk to the Beach Tournament, updated the County Council on the success of the tournament and its participants. Mr. Jacobs reported that 10 tournament alumni players will enter this year's NBA draft. Mr. Jacobs reported that Slam Dunk to the Beach is entering its thirteenth year of existence boasting over 850 members who have gone on to play Division 1 basketball and 26 players playing professionally in the National Basketball Association.

Mr. Jacobs submitted a funding request for this year's tournament. Representative Charles West and Former Judge William Swain Lee spoke in support of the tournament and the funding request. It was noted that the tournament brings international and national recognition to Sussex County and that its economic impact is unparalleled in Delaware.

Mr. Jacobs expressed his appreciation for Council's past support.

The County Council provided \$15,000 in funding to Slam Dunk to the Beach Tournament in the Fiscal 2002 Budget. Mr. Cole recommended increasing the funding to \$20,000 in the Fiscal 2003 Budget.

The funding request will be discussed at the Public Hearing on the Fiscal 2003 Budget scheduled for Tuesday, June 18th.

**Adminis-
trator's
Report**

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

1. Governor's Wade-In Event

The Center for the Inland Bays will be hosting Governor Minner's Wade-In Event on Sunday, June 16, 2002, at 1:00 p.m. at Towers Road Beach, Delaware Seashore State Park. The annual event is part of the Center for the Inland Bays' education and outreach programs to check the clarity of the inland bays.

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

2. State Route 1 Land Use/Transportation Study

The Public Advisory Committee of the State Route 1 Land Use/Transportation Study will be meeting on Wednesday, June 12, 2002, at 4:00 p.m. at the Rehoboth Convention Center, Conference Suite. I have included with this report a copy of the proposed agenda. I would encourage residents of the Lewes/Rehoboth area to attend this workshop.

**Mail
Folder
Insertor
Equip-
ment/
Bid
Results**

Mr. Frank Shade, Purchasing Director, reported on bid results for Folder Insertor Equipment, as follows:

Pitney Bowes	\$24,100.00
Maintenance Contract	<u>2,824.00</u>
Total	\$26,924.00

This equipment will replace equipment currently being used by the Treasury and Utility Billing Departments.

**M 360 02
Award
Bid/
Mail
Folder
Insertor
Equip-
ment**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Council accepts the bid of Pitney Bowes in the amount of \$26,924.00 for Folder Insertor Equipment.

Motion Adopted: 5 Yea.

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

**Waste-
water
Facilities**

Mr. Green, Director of Utility Construction, discussed wastewater facilities to be constructed in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

**M 361 02
Execute
Agreements/
Stable
Farm**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 252, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Rebay Associates, LLC for wastewater facilities to be constructed in Stable Farm, located in 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

**Lagoon
Liner
Project**

Mr. Loran George, District Manager, South Coastal Regional Wastewater Facilities, discussed Change Order No. 2 to the Lagoon Liner Replacement Project.

**M 362 02
Approve
Change
Order/
Lagoon
Liner
Replace-
ment
Project**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Change Order No. 2 to Sussex County Project No. 00-04, entitled "Lagoon Liner Replacement" for the purpose of remobilization charges for relining "B" Lagoon, for the total sum of \$3,600.00.

Motion Adopted: 5 Yea.

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

**Proposed
Ordinance**

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 86.84 ACRES, MORE OR LESS" (Change of Zone No. 1477) filed on behalf of United Foods, Inc. 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 HOLDING AREA FOR STORAGE UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 8.07 ACRES, MORE OR LESS" (Conditional Use No. 1461) filed on behalf of Jeffrey Scott Burton. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR DOCTORS OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 33,435 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1462) filed on behalf of Michael A. and Judith B. Poleck. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRIC SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,

Proposed Ordinance (continued) **CONTAINING 6.09 ACRES, MORE OR LESS” (Conditional Use No. 1463) filed on behalf of Delaware Electric Cooperative. The Proposed Ordinance will be advertised for Public Hearing.**

Correspondence **Mr. Dukes read the following correspondence:**
MARGUERITE H. PRUEITT, CHIEF EXECUTIVE OFFICER,
AMERICAN RED CROSS, WILMINGTON, DELAWARE.
RE: Letter in appreciation of grant.

Citizen’s Comments **Mr. Dan Kramer, resident, questioned why all residents are not billed for capitation taxes. Mr. Kramer asked that the County check the Woodbridge School District’s election rolls to identify who is not being taxed and to send them a bill.**

M 363 02 Recess **At 11:37 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Rogers, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **Mr. Jones called Council back into session at 1:30 p.m.**

Public Hearing (C/U No. 1451) **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 AUTOMOTIVE, BOAT, AND SMALL ENGINE REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 12,694.65 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1451) filed on behalf of Rickie L. Clogg.**

The Planning and Zoning Commission held a Public Hearing on this application on May 9, 2002. The Commission recommended that the application be approved with stipulations.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Stickels announced that a call was received from Mr. Clogg advising that he was too ill to attend the Public Hearing today.

It was the consensus of Council to hold the Public Hearing; to hear public comments; and to recess the Public Hearing until a later date.

There were no public comments.

M 364 02 Recess Public Hearing **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to recess the Public Hearing on Conditional Use No. 1451, an application of Rickie L. Clogg, until a future date.**

Motion Adopted: 5 Yea.

**M 364 02
(continued)**

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

**Public
Hearing
(C/U
No. 1453)**

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 A USED CAR SALES LOT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS" (Conditional Use No. 1453) filed on behalf of Joseph E. Bowman, Jr.

The Planning and Zoning Commission held a Public Hearing on this application on May 9, 2002 at which time the Commission deferred action.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that Joseph Bowman was present on behalf of his application. Mr. Bowman stated in his presentation and in response to questions raised by Council that he proposes a used car sales facility; that there will be a maximum of 20 cars at the site; that he plans to improve the existing building; that he proposes a 5 day per week operation with hours from 10:00 a.m. to 5:00 p.m.; that the neighbors do not oppose the operation; that the operation will not negatively impact traffic; that the operation will not negatively impact property values; that there will be no outside repairs; and that no fuel will be stored on site.

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

**M 365 02
Defer
Action
(C/U
No. 1453)**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to defer action on Conditional Use No. 1453, an application of Joseph E. Bowman, Jr.

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1468)**

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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 258.11 ACRES, MORE OR LESS (Change of Zone No. 1468) filed on behalf of Boca East LLC.

**Public
Hearing
(C/Z
No. 1468)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on May 9, 2002 at which time the Commission deferred action.

The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that James Fuqua, Attorney; Jim Harty and Harry Simeone, Developers; Preston Lee, Engineer; Toni McClay, Operations Manager; and Bruce Patrick, Tidewater Utilities, were present on behalf of the application and stated in their presentation and in response to questions raised by Council that the application is for a continuing care retirement community; that the property contains a gross area of 258 acres and is located on the east side of County Road 279, the Camp Arrowhead Road; that the surrounding area is generally developed in a mixture of single family and manufactured homes; that the applicant proposes 123 single family lots improved with single family homes, 182 duplex cottages, 153 apartments, and 50 assisted living units; that the community will be gated; that there will be commercial facilities for use by the people in the development; that the community will be age restricted; that the development will be served by central sewer and central water (provided by Tidewater Utilities).

Recess

At 3:05 p.m., Mr. Jones declared a five minute recess.

Reconvene

Mr. Jones called Council back into session.

**Public
Hearing
(C/Z
No. 1468)
(continued)**

Persons present in support of the application stated that the population in the area is growing, especially with older residents and retirees, and that there is a need for this type of development in the area.

Persons present in opposition to the application stated that The Woods on Herring Creek is served by a similar wastewater system as proposed for Boca East and that the wastewater system has been failing for several years; that frequently there is untreated/partially treated sewage surfacing; that the community water well (Tidewater Utilities) for The Woods on Herring Creek is contaminated with nitrates and has very poor quality; that Boca East will be a further threat to the potability of their drinking water; that the proposed apartments and cottages are out of character with the area; that property values would be devalued by the proposed development; that a memo from DNREC states that they strongly urge the denial of this application based on the impact on open shellfish beds adjacent to the property, the sensitive classification of the property and surrounding lands, rare habitat, rare species, and proximity to exceptional recreational and ecological sensitive waters; that Camp Arrowhead Road is a narrow, dead-end road with dramatic curves and no shoulders, sidewalks, or lighting; that the application would generate huge infrastructure needs on Camp Arrowhead Road and there is no way to up-grade the road; that since September, 2001 there have been at least six reported vehicular accidents on Camp Arrowhead Road as a result of the severe "s" curves; that

**Public
Hearing
(C/Z
No. 1468)
(continued)**

children's safety is a concern; that the area is already highly populated with insufficient roadways to serve the current needs; that the loss of trees and habitat would effect the wildlife and shellfish beds; that the ecology of the forest would be changed by the proposed development; and that there is concern about the loss of forest and the water quality in the bays.

Mr. Cole stated that he was aware that a representative from the Department of Natural Resources and Environmental Control was in attendance.

Mr. Jack Pingree, Program Manager, Shellfish and Recreational Water Branch, Division of Water Resources, Department of Natural Resources and Environmental Control, was present and stated that he was in attendance with the intention of listening; however, he could answer questions in his capacity as Program Manager.

Mr. Cole questioned whether this development will impact shellfish. Mr. Pingree responded that in his comments through the LUPA process, he indicated that there is a high probability due to the density, the on-site disposal, and the presence of hydric soils.

Mr. Cole referred to the Delaware Department of Transportation's letter and noted that comments made by the applicant's consultant referred to a study in Pennsylvania and that DelDOT did not require a traffic impact study based on those comments. Mr. Cole disagreed and asked that DelDOT revisit this application and report back to Council.

Mr. Dukes referred to comments made by the Engineering Department that the project is located in the West Rehoboth Moratorium Area. Mr. Stickels reported that the Moratorium expired in December 1997; that this area is not in the service area for West Rehoboth; that it has never been in the planning area for West Rehoboth; and that it has never been in a septic system moratorium area.

**M 366 02
Defer
Action/
C/Z
No. 1468**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer action on Change of Zone No. 1468, filed on behalf of Boca East, LLC; to leave the record open until July 18, 2002 for (1) additional comments from the Delaware Department of Transportation relating to traffic problems, number of accidents, and future improvements; (2) a copy of DNREC's on-site inspection report relating to endangered species; and (3) a response to DNREC's comments made by Mr. Pingree; and to leave the public hearing record open for an additional ten days following the July 18, 2002 deadline for comments on the information submitted.

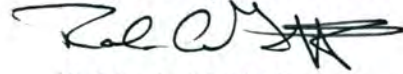
Motion Adopted: 5 Yea.

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

M 367 02
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to adjourn at 5:10 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. A. Griffith', with a stylized flourish at the end.

Robin A. Griffith
Clerk of the Council