

SUSSEX COUNTY COUNCIL, GEORGETOWN, DELAWARE, JUNE 5, 2001

Ground-breaking The Sussex County Council attended a groundbreaking ceremony for the new Sussex County Airport Terminal Building on Tuesday, June 5, 2001, beginning at 9:00 a.m. The building, consisting of approximately 6,000 square feet and costing \$1 million, will house a 60-seat restaurant, conference room, pilots lounge, an area for pilots to prepare their flight plans complete with a weather channel to provide pilots with current weather conditions, offices for the operators of the airport, and three offices which will be rented.

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 5, 2001, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes.	President
Finley B. Jones Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	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 300 01 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to approve the
Approve Agenda
Agenda

Motion Adopted: 5 Yea.

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

M 301 01 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to approve the
Approve Minutes
Minutes

Motion Adopted: 5 Yea.

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

Corre- Mr. Bayard read the following correspondence:
spondence

Corre-
spondence
(continued)

PATSY BENNETT-BROWN, SENIOR CENTER DIRECTOR, ROXANA
CHEER SENIOR CENTER, FRANKFORD, DELAWARE.

RE: Letter in appreciation of Council's participation in the Open House.

THERESA CLOWER, DIRECTOR, DELAWARE MENTORING
COUNCIL, NEWARK, DELAWARE.

RE: Letter in appreciation of \$200.00 Grant for the Delaware Mentoring
Council's Partnership for Youth.

M 302 01
Authorize
Executive
Session

A Motion was made by Mr. Jones, seconded by Mr. Phillips, authorizing an
Executive Session to be held on this date, immediately following the morning
session of the County Council meeting, for the purpose of discussing personnel
and pending litigation.

Motion Adopted: 5 Yea.

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

Legislative
Update

Mr. Stickels provided the following legislative update:

1. Senate Bill No. 28 – This legislation is intended to bring § 8335(d)(3) of Title 9 into conformity with Article VIII, § 1, of the Delaware Constitution, which contains language reflecting the intent of the Delaware General Assembly to tax land actively devoted to agriculture in accordance with its actual use as agricultural property. Under the provisions of the bill, the rezoning or subdivision of land would not automatically constitute a change in use for purposes of valuation, assessment, and taxation, if the land has been devoted to agricultural use for at least two consecutive years immediately preceding the tax year in issue.

(It was the consensus of Council to forward a letter to the Governor asking that Sussex County be excluded from Senate Bill No. 28.)

2. Senate Bill No. 90 – This act requires each county to develop Intergovernmental Coordination Zones wherein land use decisions can be coordinated between municipalities and counties, and wherein joint land use planning between the county and municipalities will occur. The act provides for appropriate notice of proposed land use actions by either the county or the municipality and provides a process for review, comment, and consideration of such actions to avoid unplanned effects on the infrastructure or the provision of services, increase compatibility of land use regulations, and to maintain the character of the community. If the county objects to a municipal plan, a two-thirds majority vote is required to enact the plan.

Legislative
Update
(continued)

3. Senate Bill No. 98 – This act establishes a Statewide Residential Energy Efficiency Rating System to adopt a residential home energy efficiency rating system.
4. Senate Bill No. 119 – This bill requires county governments and municipalities with populations of 2,000 or more, as part of the updates to the 2007 Comprehensive Land Use Plans, to adopt maps delineating source water assessment, wellhead protection, and excellent groundwater recharge areas, and regulations governing the use of land within those critical areas designed to protect drinking water supplies. The bill obligates DNREC to provide the necessary technical assistance to local governments to adopt these measures and defines and clarifies source water and wellhead protection areas as critical areas as defined under Chapter 92, Title 29, of the Delaware Code. The bill would require that a citizen and technical advisory committee be consulted in the implementation of the Source Water Assessment Plan and closely related matters.
5. Senate Bill No. 188 – This bill requires the identification of all persons with an interest in applications for rezoning, variances from zoning restrictions, or subdivision approval.
6. House Bill No. 70 – This act provides that the cost of a transcript and other out-of-pocket expenses incurred when a Board of Adjustment decision is appealed are the responsibility of the person appealing the decision unless the cost is awarded against the Board of Adjustment as provided in § 332. This situation is costing local municipalities significant sums, even when their decisions have been upheld.
7. House Bill No. 168 – This legislation implements the transition of the Office of Register in Chancery from county to state government.

Additional Legislation Proposed But Not Yet Introduced:

1. AN ACT AMENDING CHAPTER 5 OF TITLE 9, DELAWARE CODE, BY CREATING A NEW SUBCHAPTER III CONCERNING SIDEWALKS – This act directs the county governments to develop appropriate ordinances that will regulate the maintenance and upkeep of sidewalks in the unincorporated portions of each county. The counties are given until December 31, 2001, to adopt the ordinances, which must go into effect July 1, 2002.
2. AN ACT TO AMEND CHAPTER 76 OF TITLE 7 OF THE DELAWARE CODE TO CREATE AN INLAND BAYS WETLANDS AND SUBAQUEOUS LANDS BUFFER PROGRAM – This legislation would require land disturbing activities to submit a buffer plan to the appropriate plan approval authority in obtaining approval to proceed. DNREC and the County would be required to

Legislative
Update
(continued)

- establish this program to include regulations and an education process.
3. INLAND BAYS WATERSHED IMPACT ASSESSMENT STUDY AND IMPACT FEE – This legislation would require implementation of an environmental, land use, public facilities, and transportation impact assessment study to determine the monetary costs to society per new household dwelling unit and/or new business or commercial unit built in the inland bays watershed. Impact fees would be established by a board made up of two state representatives, two county representatives, one Center for the Inland Bays representative, and two public representatives selected by the Governor. Impact fees would only be for construction in the inland bays watershed located in unincorporated areas of the county. All municipalities located in the inland bays watershed would be exempt from this program.
 4. AN ACT TO AMEND TITLE 16 RELATED TO PROVIDING A STATEWIDE ENHANCED 911 EMERGENCY SERVICE NETWORK – This legislation would create one statewide enhanced 911 system. The proposed legislation would affect the county's current 50-cent charge on residential phones.

Mr. Stickels advised that Governor Minner will be signing bills at a ceremony scheduled to be held on Thursday, June 14th.

Adminis-
trator's
Report

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

1. County Council Meeting Schedule

The Sussex County Council will meet at 4:00 p.m. on June 12, 2001, in the County Council Chambers on The Circle in Georgetown in the County Administrative Building. Please note the change in time of the meeting that is normally scheduled for 10:00 a.m. on Tuesdays.

2. Public Hearing

The Sussex County Council will conduct a Public Hearing on Tuesday, June 12, 2001, starting at 7:00 p.m. The purpose of the Public Hearing will be to receive public input on a request from the Association of Coastal Towns that the Sussex County Council adopt an Interim Rezoning Policy until completion of an updated County Land Use Plan in October of 2002. The area to be affected by the request has been designated as the Sussex County Coastal Development District.

The Public Hearing will take place in the CHEER Auditorium located on Sand Hill Road, Georgetown, Delaware. For additional information, call the Sussex County Planning and Zoning Office at 855-7878.

Adminis-
trator's
Report
(continued)

3. Sussex County 24th Annual Prayer Breakfast

The Sussex County Council will be conducting its 24th Annual Prayer Breakfast on Monday, June 18, 2001, starting at 7:30 a.m. The Prayer Breakfast will be held at the Delaware Technical & Community College Student Service Center Dining Hall, Jack F. Owens Campus, Georgetown, Delaware.

This year's speaker will be Dr. Richard Foth. Dr. Foth's career has been mainly spent working with young people, first as a pastor adjacent to the University of Illinois in Urbana, then as a college president at Bethany College in California. His latter involvement put him close to the business and political communities. In 1993, Dr. Foth began serving Washington, D.C., by working with the Senate and the House of Representatives breakfast groups, who annually facilitate the National Prayer Breakfast in Washington, D.C.

Tickets may be obtained by contacting the County Council Office at 855-7743.

4. Region 3 Planning Meeting

A Region 3 Land Use Planning meeting will be held on Thursday, June 7, 2001, at the Fenwick Island Town Hall starting at 10:00 a.m. The planning meetings are part of the County Council's intergovernmental cooperation effort. During the meeting, each local government will be given an opportunity to give an update on activities in their areas of responsibility. Towns in Region 3 include Dagsboro, Frankford, Selbyville, Millville, Ocean View, Bethany Beach, South Bethany, and Fenwick Island.

The media, as well as the general public, is invited to attend the regional planning meetings.

Bid
Opening/
Postage
Machine
and
Folder/
Insert
Machine

Mr. Shade reported on the bid opening for a Postage Machine and Folder/Insert Machine for the Register in Chancery Department. Mr. Shade advised that questions arose at the bid opening regarding some ambiguous information in the proposal to bid. Mr. Shade was advised by legal counsel that the project would have to be re-bid due to the conflicting information provided in the proposal. The Department has requested (1) that the two bids be rejected; (2) that they would like to further investigate the material submitted at the bid opening, and (3) that they would like to investigate other machinery available. Mr. Shade noted that the County has the right to reject bids for any reason.

M 303 01
Reject Bids

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to reject the bids for the Postage Machine and Folder/Insert Machine.

M 303 01
Reject
Bids
(continued)

Motion Adopted: 5 Yea.

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

Proposed
Ordinance

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.0154 ACRES, MORE OR LESS" (Change of Zone No. 1442) filed on behalf of Allen S. Jester. The Proposed Ordinance will be advertised for Public Hearing.

M 304 01
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$500.00, \$250.00 each from Mr. Phillips' and Mr. Dukes' Councilmanic Accounts, to the Christian Fellowship Softball League for expenses.

Motion Adopted: 5 Yea.

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

M 305 01
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$300.00 from Mr. Rogers' Councilmanic Account to the City of Lewes to offset expenses associated with the Mayor's attendance at the Small Cities Council Steering Committee Meeting in Marion, North Carolina.

Motion Adopted: 5 Yea.

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

M 306 01
Youth
Activity
Grant

A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$1,250.00, \$250.00 from each Youth Activity Grant Account, to Delaware Technical & Community College to offset expenses associated with the Roadrunner Baseball Team's participation in the World Series of the National Association of Junior Colleges Division 2 in Tennessee.

Motion Adopted: 5 Yea.

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

M 307 01
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$500.00 from Mr. Dukes' Councilmanic Account to the Nanticoke Riverfest for expenses.

Motion Adopted: 5 Yea.

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

M 308 01
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$500.00, \$250.00 each from Mr. Jones' and Mr. Rogers' Councilmanic Accounts, to Milford Memorial Hospital Auxiliary for the Annual Hospital Fair.

Motion Adopted: 5 Yea.

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

Cape
Henlopen
School
District
Sewer
Request

Mr. Archut, Assistant County Engineer, discussed a request from the Cape Henlopen School District to provide sanitary sewer service to the proposed new Middle School. Mr. Archut advised that the District has submitted a conditional use application to the County for the Middle School project located on Route 24, approximately 1 1/2 miles west of Route One. Mr. Archut noted that the site is not within the sewer district boundaries; however, he noted that there is capacity to include this area in the district with no existing sewer lines becoming deficient as a result of the expansion. Mr. Archut stated that the County can provide the Middle School with sewer service through an Agreement which (1) limits flows, (2) requires them to pay all the fees, and (3) requires them to build all the facilities necessary to connect. Mr. Archut advised that the Agreement would be contingent on approval of the conditional use application.

M 309 01
Negotiate
Agreement/
Cape
Henlopen
School
District/
Sewer
Service

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Council directs the Engineering Department to negotiate an Agreement with the Cape Henlopen School District to provide sanitary sewer service to the new Middle School on State of Delaware Route 24, west of Route One.

Motion Adopted: 5 Yea.

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

Public
Hearing

At 10:50 a.m., a Public Hearing was held to consider extending the Dagsboro-Frankford Sanitary Sewer District (DFSSD) to include the lands of the Dagsboro Church of God located west of Route 113. Mr. Archut advised that

Public Hearing
DFSSD
(continued)

the Dagsboro Church of God is contiguous to the DFSSD. The Church has made this request due to their expansion plans and plans for additional church activities.

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

M 310 01
Adopt
Resolution
No.
R 017 01

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt R 017 01 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE DAGSBORO-FRANKFORD SANITARY SEWER DISTRICT (DFSSD) TO INCLUDE THE LANDS OF THE DAGSBORO CHURCH OF GOD SITUATE, LYING WEST OF STATE OF DELAWARE ROUTE 113, AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, DELAWARE".

Motion Adopted: 5 Yea.

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

Ellendale
Sanitary
Sewer
District/
Bid
Results

Mr. Izzo, County Engineer, reported on bid results for Sussex County Project No. 99-09, Ellendale Sanitary Sewer District, as follows:

BIDDER	BASE CONTRACT		TOTAL
	ELLENDALE	NEW MARKET VILLAGE	
Teal Construction Dover, Delaware	\$7,202,188.10	\$885,444.90	\$7,988,988.00
Bearing Construction Sudlersville, Maryland	\$7,720,228.00	\$872,833.00	\$8,830,205.00
Engineer's Estimate	\$5,243,271.00	\$511,910.00	\$6,017,231.00
Difference =	-\$1,971,757.00		

GRINDER PUMP CONTRACT	
J.J.I.D. Bear, Delaware	\$599,830.00
David A. Bramble, Inc. Chestertown, Maryland	\$619,063.00
Hopkins Construction Bridgeville, Delaware	\$681,700.00

Ellendale
Sanitary
Sewer
District
(continued)

GRINDER PUMP CONTRACT (continued)

Bearing Construction Sudlersville, Maryland	\$696,238.00
Engineer's Estimate	\$427,025.00

Difference = -\$172,805.00
Total Project Difference = -\$2,144,562.00

Mr. Izzo explained that the bid was separated into two contracts; the grinder pump contract was separated from the base contract due to the fact that the federal grant which had been obtained for the grinder pump contract carried the requirement of Davis Bacon wage rates. For cost saving purposes, the Engineering Department did not want the Davis Bacon wage rates to apply to the entire contract. Mr. Izzo further explained that the base contract, which consists of 90 percent of the work, was separated into two areas – the main portion of Ellendale and the small subdivision known as New Market Village, which will have a separate rate structure.

Mr. Izzo discussed the bids received on the contracts noting that the low bids were \$1,971,757.00 and \$172,805.00 over the Engineering Department's cost estimates. Mr. Izzo explained to Council that he believes the bids are high because there is a lot of private work available to the contractors and there is a small number of contractors that bid projects of this scope. Mr. Izzo also noted that the cost of petroleum is affecting asphalt prices and therefore, the cost of the project.

Mr. Izzo recommended that the bids be rejected since the project is not cost-effective as it was bid. He emphasized that a more competitive bid process is needed and with this in mind, the following recommendations were made: (1) that a workshop meeting with local contractors be scheduled to discuss how the project can be made more attractive and how costs can be reduced, and (2) break up the Ellendale project into smaller contracts. Mr. Izzo noted that there are problems associated with recruiting out-of state contractors, i.e. the quality of work is not always the best; they are not interested in public relations and any damages they may cause in the areas where they are working; payments to sub-contractors is a slow process; and the contractor is not in the area on weekends if problems come up. Mr. Izzo noted that another idea being considered is to value engineer the project again. Mr. Izzo advised that the Engineering Department will come back to Council with a program to re-bid the Ellendale project.

M 311 01
Reject
Bids/
Ellendale
SSD

A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Engineering Consultants, Whitman, Requardt & Associates, LLP, and the Engineering Department, that all bids received on May 21, 2001 for Sussex County Project No. 89-16 and 89-16A which references the Ellendale Sanitary Sewer District be rejected.

M 311 01
(continued)

Motion Adopted: 5 Yea.

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

Bid
Results/
Airport
Terminal
Apron
Expansion

Mr. Izzo, County Engineer, reported on the bid results for Sussex County Project No. 01-09, Terminal Apron Expansion. Only one bid was received, from Sparr Associates, Delmar, Maryland, in the amount of \$669,123.90. The engineer's estimate was \$600,208.00. Mr. Izzo advised that most of the overage is due to electrical work. Mr. Izzo further advised that this is a grant-eligible project; the County will receive 90 percent from the FAA and 5 percent from the State.

M 312 01
Award
Bid/
Airport
Terminal
Apron
Expansion

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 01-09, Terminal Apron Expansion, be awarded to the lowest responsive bidder "SPARR Associates, Inc., at the bid amount of \$669,123.90, contingent upon the receipt of the corresponding grant from the Federal Aviation Administration.

Motion Adopted: 5 Yea.

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

Bid
Results/
SCADA
System

Mr. Izzo, County Engineer, reported on the bid results for Sussex County Project 01-06, SCADA System Improvements, Phase II. Only one bid was received, from Trijay Systems, Inc., Line Lexington, Pennsylvania, in the amount of \$858,000.00. The engineer's estimate was \$930,000.

M 313 01
Award
Bid/
SCADA
System

A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP, and the Engineering Department, that Sussex County Project No. 01-06, SCADA System Improvements, Phase II, be awarded to Trijay Systems, Inc. at the bid amount of \$858,000.

Motion Adopted: 5 Yea.

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

Public
Hearing

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY IN ORDER TO LIMIT THE NUMBER OF RESIDENTIAL

Public
Hearing/
Amend
Zoning
Code
(continued)

DWELLINGS PER UNIT IN B-1 NEIGHBORHOOD BUSINESS DISTRICTS, C-1 GENERAL COMMERCIAL DISTRICTS, AND M MARINE DISTRICTS”.

Mr. Lank, Director of Planning and Zoning, explained that this Proposed Ordinance will limit the density of residential dwellings in business, commercial, and marine districts to four (4) units per acre. Densities of up to twelve (12) units per acre are currently possible, either as a permitted use or as a conditional use, in those three (3) districts.

Mr. Lank reported on the Public Hearing held by the Planning and Zoning Commission on May 10, 2001. The Planning and Zoning Commission has recommended that the application be denied.

Public comments were heard. Comments in opposition to the Proposed Ordinance referred to loss of farmland; reduction of affordable housing; reduction of equity; that the proposed ordinance would result in a “taking” and that it borders on eminent domain without compensation; that some existing parcels in B-1, C-1 and M Districts are not economically suitable for development at four units per acre; that there is a demand for multi-family housing; and that if this concept is considered, it should be considered as part of the update of the Comprehensive Plan.

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

Mr. Cole requesting that the Director of Planning and Zoning obtain information from other counties (New Castle, Kent, and other surrounding counties) on what they have done regarding this issue.

M 314 01
Adopt
Proposed
Ordinance
to Amend
Zoning
Code

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY IN ORDER TO LIMIT THE NUMBER OF RESIDENTIAL DWELLINGS PER UNIT IN B-1 NEIGHBORHOOD BUSINESS DISTRICTS, C-1 GENERAL COMMERCIAL DISTRICTS, AND M MARINE DISTRICTS”.

Motion Denied: 4 Nay, 1 Yea.

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

Request
for
Information

Mr. Cole requested legal counsel’s advice regarding the allegations that this Proposed Ordinance would result in a “taking”.

Mr. Phillips referred to Mr. Cole’s request that the Director of Planning and Zoning research issues relating to this Proposed Ordinance.

M 315 01
Review
by Land
Use
Advisory
Committee

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to allow the Land Use Advisory Committee to review the issues relating to the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY IN ORDER TO LIMIT THE NUMBER OF RESIDENTIAL DWELLINGS PER UNIT IN B-1 NEIGHBORHOOD BUSINESS DISTRICTS, C-1 GENERAL COMMERCIAL DISTRICTS, AND M MARINE DISTRICTS".

Motion Adopted: 5 Yea.

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

Attorney

Mr. Bayard left the meeting and Mr. Schrader, Assistant County Attorney, joined the meeting.

Public
Hearing/
Amend
Zoning
Code/
Subdivisions

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AMENDING CHAPTER 99, SECTION 13 OF THE SUBDIVISION CODE OF SUSSEX COUNTY, RELATING TO NOTICE AND CONSENT REQUIREMENTS FOR PROPOSED ALTERATIONS, RESUBDIVISIONS, OR ADDITIONS OF PREVIOUSLY SUBDIVIDED AND RECORDED PLATS; CREATING A PROCEDURE FOR THE APPROVAL OF MINOR SUBDIVISIONS; AND PROVIDING FOR THE PAYMENT OF FEES AND COSTS TO SUSSEX COUNTY".

Mr. Lank explained that this Proposed Ordinance (1) corrects a grammatical error in Subsection A of the Subdivision Code; (2) requires the Director of Planning and Zoning to give notice to all property owners of pending applications and deletes the requirement that all owners in the previously subdivided area consent to proposed alterations or changes when density is not increased. If density is increased, the consent of not less than 51 percent of the property owners is required; and (3) increases the fee for filing all subdivision applications to \$300.00, provides for an increase in fees for final plat approval, and provides that the subdivider reimburse the County for the costs of any notices, etc.

Mr. Lank reported on the Public Hearing held by the Planning and Zoning Commission on May 10, 2001. The Planning and Zoning Commission has recommended that the application be approved.

Mr. Dukes asked for clarification that the Proposed Ordinance specifies that if an application results in increased density within the subdivision, the subdivider must provide evidence that not less than fifty-one percent (51%) of the property owners consent to the application.

Public
Hearing
(continued)

Public comments were heard and referred to portions of the Proposed Ordinance which should be adopted and portions which should not be; that the Proposed Ordinance will help simplify sound land use planning in subdivisions where it may be appropriate to make modifications due to changes that occur over time in the development of lands; that the Proposed Ordinance guarantees equal rights to people for and against a proposal; that Council should consider grandfathering existing subdivisions so that 100% approval is required; that the current ordinance is there to protect the people that buy from a developer and the ordinance should continue to provide that protection; that Council should be concerned about changes in planning as well as increased density; that under this proposal, amenities can be deleted; that the scheme of development can be entirely changed; that the scope of the 51 percent requirement should be increased, and that it should be increased to 2/3 percent; and that Council should broaden the scope of the threshold requirement to an amendment to the subdivision.

The Public Hearing was closed.

M 316 01
Strike
Section
in
Proposed
Ordinance/
Subdivisions

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to strike "Section 99-14. Fees." from the Proposed Ordinance in order that the fees remain unchanged.

Motion Denied: 4 Nay, 1 Yea.

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

M 317 01
Adopt
Ordinance
No. 1463

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Ordinance No. 1463 entitled "AN ORDINANCE AMENDING CHAPTER 99, SECTION 13 OF THE SUBDIVISION CODE OF SUSSEX COUNTY, RELATING TO NOTICE AND CONSENT REQUIREMENTS FOR PROPOSED ALTERATIONS, RESUBDIVISIONS, OR ADDITIONS OF PREVIOUSLY SUBDIVIDED AND RECORDED PLATS; CREATING A PROCEDURE FOR THE APPROVAL OF MINOR SUBDIVISIONS; AND PROVIDING FOR THE PAYMENT OF FEES AND COSTS TO SUSSEX COUNTY".

Motion Adopted: 4 Yea, 1 Nay.

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

(Mr. Cole noted that he does support the proposed fee increase.)

Defer
Agenda
Items The Agenda items listed under “Robert Green, Director of Utility Construction” were deferred until the afternoon session. It was noted that Mr. Tom Baker would represent Mr. Green at that time.

M 318 01 At 12:27 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Jones, to
Recess recess and go into Executive Session. Motion Adopted by Voice Vote.

Executive An Executive Session of the Sussex County Council was held Tuesday, June 5,
Session 2001, at 12:30 p.m., in the Caucus Room of the Council Chambers, Sussex
County Administrative Office Building, Georgetown, Delaware, with the
following present:

Dale R. Dukes.	President
Finley B. Jones Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Eugene Bayard	County Attorney
Robert Reed	Sheriff
Jeff Christopher	Deputy Sheriff
Dennis Norwood	Supervisor of Mapping and Addressing

Personnel issues relating to the Sheriff’s Office and pending litigation were discussed.

M 319 01 At 12:52 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Cole, to
Adjourn adjourn the Executive Session and to recess until 1:30 p.m. Motion Adopted
Session by Voice Vote.

Reconvene Mr. Dukes called Council back into session at 1:37 p.m.

Wastewater Mr. Baker, Utility Construction Division, discussed wastewater facilities
Facilities constructed in Bayville Shore - Phase I and Stone Wood Chase.

M 320 01 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the
Grant recommendation of the Sussex County Engineering Department for Sussex
Beneficial County Project No. 81-04, Agreement No. 206, that the Sussex County
Acceptance/ Council grant Beneficial Acceptance for the wastewater facilities constructed
Bayville in Bayville Shore – Phase I (offsite), located in the Fenwick Island Sanitary
Shore, Sewer District.
Phase I

Motion Adopted: 4 Yea, 1 Abstention.

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

M 321 01
Execute
Agreements/
Stone Wood

A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 205, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Frank Robino Associates, Inc., for wastewater facilities to be constructed in Stone Wood Chase, located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/U
No. 1397)

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 COUNSELING AND GUIDANCE SERVICES FOR CHILDREN AND THEIR FAMILIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.74 ACRES, MORE OR LESS" (Conditional Use No. 1397) filed on behalf of Delaware Guidance Services for Children and Youth, Inc.

Mr. Lank reported on the Public Hearing held by the Planning and Zoning Commission on May 10, 2001, at which time the Commission recommended that the application be denied based on concerns relating to the location, traffic, and safety factors.

The Council found that Bruce Kelsey, Executive Director of Delaware Guidance Services for Children and Youth, Inc.; Nicole Keller, Director of Out-Patient Services; and James Fuqua, Attorney, were present on behalf of the application. Mr. Fuqua referred to the public access road and the beneficial proposed use of the property. Mr. Fuqua explained that the site is located on the southwest side of Route One, north of Best Lane; that the lot contains 1.74 acres and that they propose to build an 11,700 sq. ft. building on the property; that the site has adequate space for parking; that numerous commercial uses exist in the area; that the proposed use will provide a health service for children; that immediately adjacent to the site is a property on which the Beach Babies Day Care Center is being constructed; and that Delaware Guidance Services for Children and Youth, Inc. is currently located immediately north of this site (approximately 1,200 feet away) and that they have been operating there since 1995.

Mr. Fuqua reported that he has a letter from the Beach Babies Day Care Center indicating that they have no opposition to Delaware Guidance Services locating on the adjacent site.

Mr. Fuqua reported that at the Planning and Zoning Commission's Public Hearing, a presentation was made that Best Road is not a public road; that

Public
Hearing
(C/U
No. 1397)
(continued)

there were questions about the width of the road; questions about the use of the road; and comments that this application should not be considered until these issues are resolved.

Mr. Fuqua emphasized that “There is absolutely, no question, that this is a public road, period. If anyone else has anything contrary to that, they are wrong or they are misinformed or they are not telling you the truth.” Mr. Fuqua provided evidence to support his statements. Mr. Fuqua stated that he has a letter submitted by William Wright, Esquire, which states that, in his opinion, this road was dedicated to the State of Delaware, based on a deed that had been recorded by the Millman family to the State of Delaware in 1978. Mr. Fuqua stated that he also has a letter, dated June 2, 2000, from Frederick Schrank, Deputy Attorney General for the Department of Transportation, to Mr. Wright, confirming that the Quick-Claim Deed was “obviously intended to meet the June 30, 1978 deadline; that under that law, certain types of right-of-way became the responsibility of DelDOT; that this right-of way fits the legal requirements of the statute; and that unlike other Quick-Claim Deeds, the statute did not require that the State accept it. Mr. Fuqua continued that one of the point of contentions is that apparently, the State has not maintained the road; however, he noted that this is a matter between the State and the residents. Mr. Fuqua also mentioned that the State responded to the County’s inquiry that they had no objections to installation of gravity sewer and force mains along Route One and Best Lane. The letter stated that the area has been dedicated to public use but not maintained by the Department.

Mr. Kelsey stated that Delaware Guidance Services has been in operation since 1953 and that they provide non-residential (outpatient) mental health services for children and their families. Mr. Kelsey addressed the security concerns and stated that they have another facility located near a day care center and have had no problems.

Ms. Keller stated that there would not be any adverse traffic impact and that she does not feel there is a safety issue for the community or the day care center on the adjacent property.

Public comments were heard. Comments in support of the application referred to the need for the services proposed; supporting the vital services offered by Delaware Guidance Services; that the staff is very professional; and the importance of maintaining their presence in the County.

Comments in opposition to the proposal referred to the additional traffic burden on Best Lane; that the Route One and Best Lane intersection needs improvements; that there are safety concerns regarding problem children and mentally disturbed children; and, that although there have not been any problems in the past at other facilities, it does not mean that a problem will not ever happen.

Public
Hearing
(C/U
No. 1397)
(continued)

The Council found that Mr. Fuqua presented some suggested conditions for approval:

1. The use shall be for counseling and guidance services for children and their families.
2. The facility shall have staff present 24 hours per day 7 days per week.
3. The site shall be served as part of the Sussex County Central Sewer System.
4. There shall be no direct ingress and egress to or from the site directly to Delaware Route One.
5. Site plan shall be reviewed and approved by Sussex County Planning and Zoning Commission.

The Public Hearing was closed.

M 322 01
Defer
Action
(C/U
No. 1397)

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to defer action on Conditional Use No. 1397 filed on behalf of Delaware Guidance Services for Children and Youth, Inc.; to leave the record open for the applicant and the opposition to perform title searches for the purpose of submitting their findings to Council and to provide any argument regarding the findings. The record will close at 4:30 p.m. on June 26, 2001.

Motion Adopted: 5 Yea.

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

Presiding
Officer

Mr. Dukes turned the gavel over to Mr. Jones. Mr. Jones presided over the meeting.

Public
Hearing
(C/U
No. 1398)

A Public Hearing was held on 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 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 41,001 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1398) filed on behalf of Nomad Village, Inc.

Mr. Lank reported on the Public Hearing held by the Planning and Zoning Commission on May 10, 2001. The Planning and Zoning Commission recommended that the application be approved with stipulations.

Public
Hearing
(continued)

Bill Buchanan and James Fuqua, Attorney, were present on behalf of the application and advised that they propose to build six duplex buildings on six lots.

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

M 323 01
Adopt
Ordinance
No. 1464

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1464 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 41,001 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1398) filed on behalf of Nomad Village, Inc., with the following stipulations:

1. The density of the project shall be subject to review and approval by the Sussex County Board of Adjustment.
2. Once the Sussex County Board of Adjustment makes a decision, the site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.
3. No site preparations, site disturbance, excavation, or other construction shall be commenced until all other permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded.
4. There shall be no direct access to Route One from the site.
5. The developers shall provide a landscaped barrier between Route One and the project.
6. There shall be no connecting driveways between Cove Road and Dune Road.

Motion Adopted: 4 Yea, 1 Abstention.

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

Findings
of Fact

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use is consistent with the character of development in the area; consistent with the purposes of the Comprehensive Plan; and will have no adverse impact

Findings
of Fact
(continued)

of any sort. The demolition of the existing structures on the site will be a community benefit.

2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Presiding
Officer

Mr. Jones returned the gavel to Mr. Dukes and Mr. Dukes presided over the meeting.

Public
Hearings
(C/U
No. 1399
and
C/U
No. 1400)

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 LAND APPLICATION OF LAUREL, DELAWARE, WASTEWATER TREATMENT PLANT BIOSOLIDS AS AN AMENDMENT TO CONDITIONAL USE NO. 1373 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 88.0 ACRES, MORE OR LESS" (Conditional Use No. 1399) filed on behalf of SYNAGRO-WWT, Inc. and the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF LAUREL, DELAWARE, WASTEWATER TREATMENT PLANT BIOSOLIDS AS AN AMENDMENT TO CONDITIONAL USE NO. 1372 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 220 ACRES, MORE OR LESS" (Conditional Use No. 1400) filed on behalf of SYNAGRO-WWT, Inc.

Mr. Lank reported on the Public Hearings held by the Planning and Zoning Commission on May 10, 2001. The Planning and Zoning Commission recommended that the applications be approved with stipulations.

The Council found that Sharon Hogan, Public Affairs Manager for SYNAGRO, was present on behalf of the application and stated that the conditional use request is for a one-time application of liquid biosolids from the Laurel Wastewater Treatment Plant; that Laurel needs a one-time clean-out of their holding ponds; and that the State DNREC has approved removal of the biosolids and the site for the application.

There were no public comments and the Public Hearings were closed.

M 324 01
Adopt
Ordinance
No. 1465

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1465 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF LAUREL, DELAWARE, WASTEWATER TREATMENT PLANT BIOSOLIDS AS AN AMENDMENT TO CONDITIONAL USE NO. 1373 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 88.0 ACRES, MORE OR

M 324 01
(continued)

LESS” (Conditional Use No. 1399) filed on behalf of SYNAGRO-WWT, Inc., with the following conditions:

1. The application of sludge shall be subject to State DNREC approval.
2. The sludge applied shall be limited to biosolids from the Laurel Wastewater Treatment Plant.
3. The maximum number of applications of the biosolids on this site shall be one time and subject to the approval of the State DNREC.
4. There shall be no stockpiling of sludge materials on site.
5. The application of the biosolids shall be after Baxter Farms has harvested crops in the Fall of 2001.

Motion Adopted: 4 Yea, 1 Absent

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

(Mr. Rogers was out of the room.)

Findings
of Fact

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan and will have a positive environmental impact and no adverse impacts of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 325 01
Adopt
Ordinance
No. 1466

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1466 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF LAUREL, DELAWARE, WASTEWATER TREATMENT PLANT BIOSOLIDS AS AN AMENDMENT TO CONDITIONAL USE NO. 1372 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 220 ACRES, MORE OR LESS” (Conditional Use No. 1400) filed on behalf of SYNAGRO-WWT, Inc., with the following conditions:

1. The application of sludge shall be subject to State DNREC approval.

M 325 01
(continued)

2. The sludge applied shall be limited to biosolids from the Laurel Wastewater Treatment Plant.
3. The maximum number of applications of the biosolids on this site shall be one time and subject to the approval of the State DNREC.
4. There shall be no stockpiling of sludge materials on site.
5. The application of the biosolids shall be after Baxter Farms has harvested crops in the Fall of 2001.

Motion Adopted: 4 Yea, 1 Absent

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

(Mr. Rogers was out of the room.)

Findings
of Fact

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan and will have a positive environmental impact and no adverse impacts of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1402)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELEMENTARY CHARTER SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 14.88 ACRES, MORE OR LESS" (Conditional Use No. 1402) filed on behalf of Georgetown Charter School.

Mr. Lank reported on the Public Hearing held by the Planning and Zoning Commission on May 17, 2001. The Planning and Zoning Commission recommended that the application be approved with stipulations.

The Council found that James Fuqua, Attorney; and Ross Harris, Engineer, presented the application and stated that this conditional use application is for an elementary charter school; that there is easy access to the school from the east and west by Route 9 and the north and south by U.S. Route 13; that ten 24-foot by 64-foot manufactured classrooms are proposed; that the Board of Adjustment has approved the use of manufactured homes not to exceed eleven

Public
Hearing
(continued)

(11); that there will be a one-way entrance and exit to the site; that on-site septic and an on-site well will be used and upgraded as needed; and that 600 children have signed up to attend the school.

Public comments were heard. Mr. and Mrs. White expressed concern about the entrance configuration; that DelDOT drawings show that their driveway will be blocked by school buses; and that the speed limit in the area should be reduced for safety reasons. At Council's request, the applicant responded to Mr. and Mrs. White's concerns.

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

M 326 01
Adopt
Ordinance
No. 1467

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1467 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELEMENTARY CHARTER SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 14.88 ACRES, MORE OR LESS" (Conditional Use No. 1402) filed on behalf of Georgetown Charter School, with the following stipulations:

1. The manufactured classrooms shall be subject to the approval of the Sussex County Board of Adjustment.
2. The site plan shall be subject to the review and approval of the Planning and Zoning Commission. upon receipt of all required agency approvals.

Motion Adopted: 5 Yea.

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

Findings
of Fact

The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use is the result of a change in State law creating charter schools. The local demand for this school is such that the applicant now has 600 students for the upcoming year, before the school has opened its doors. Thereby, the proposed use is consistent with the purposes and goals of the Comprehensive Plan.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Carrying
Capacity
Study

Mr. Cole commented on the NACo Conference he recently attended and addressed one of the issues discussed, which was performing a "Carrying Capacity Study" in a tourist area. Mr. Cole asked for a consensus from Council for Mr. Stickels to correspond with Governor Minner, State Senators and Representatives, Senator Biden, Senator Carper, and Representative Castle to request funding to pay for this study in Delaware, and more specifically, in the County's coastal area. He noted that the study would define quality of life issues; that the study would help determine the balances needed; and that the study would help address some of the seasonal problems the County encounters, such as infrastructure, traffic congestion and beach erosion.

M 327 01
Review
Study

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to submit the issue of the "Carrying Capacity Study" to the Land Use Advisory Committee for their opinion as to the merits of such a study.

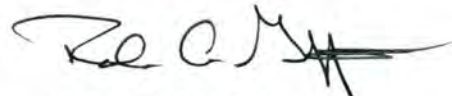
Motion Adopted: 4 Yea, 1 Nay.

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

M 328 01
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to adjourn at 4:25 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council