

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 6, 2000

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 6, 2000, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

M 266 00 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the
Approve Agenda, with a change in the order of business, moving "Old Business" to
Agenda precede "Any Additional Business Brought Before Council".

Motion Adopted: 4 Yea, 1 Absent.

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

M 267 00 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the
Approve minutes of the May 23, 2000 meeting, with the following amendment:
Minutes

Motion M 258 00 - "A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$1,750.00 (\$400.00 each from Mr. Cole's, Mr. Dukes', Mr. Phillips', and Mr. Rogers' Councilmanic Accounts and \$150.00 from Mr. Jones' Councilmanic Account) to the Delaware District 3 Little League Program for the upcoming Eastern Regional Major League Softball Tournament.";

to be amended to:

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

M 267 00
(continued)

Motion Adopted: 4 Yea, 1 Absent.

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

Corre-
spondence

Mr. Bayard read the following correspondence:

U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA,
PENNSYLVANIA.

RE: Public Notice to solicit comments and recommendations from the public concerning the issuance of a Department of the Army permit. (Applicant: North Shores Board of Governors. Waterway: Atlantic Ocean.)

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW JERSEY.

RE: Public Notice regarding project review applications received, none of which are located in Sussex County.

AIR QUALITY MANAGEMENT, DIVISION OF AIR & WASTE MANAGEMENT, DIVISION OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, NEW CASTLE, DELAWARE.

RE: Two notices of Public Hearing.

SUSSEX CENTRAL HIGH SCHOOL, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

STOCKLEY STRIDE, GEORGETOWN, DELAWARE.

RE: Letter requesting Councilmanic funding for the 12th Annual Stockley Stride.

STOCKLEY CENTER, GEORGETOWN, DELAWARE.

RE: Invitation to attend a dedication ceremony to be held on Friday, June 9th at the Stockley Center.

MILLSBORO FIRE COMPANY, MILLSBORO, DELAWARE.

RE: Letter expressing appreciation that the County Council had the forethought to pursue the purchase of the Sussex County Mobile Command Post.

Launching
A Dream
Project

Ms. Marcia Windley, Teacher, and students from West Seaford Elementary School were in attendance to discuss their participation in a project entitled "Launching a Dream: STS 09-D". The program is designed to increase aeronautic interest with activities sponsored by the Delaware Aerospace Education Foundation. The program integrates science, math, technology, and career choices into the curriculum. This is a state-wide program with two schools selected to participate annually. This is the second time West Seaford Elementary School has been chosen to participate.

Attendees Mr. Cole joined the meeting at this time.

M 268 00 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt the
Adopt Proclamation entitled "PROCLAIMING SUNDAY, JUNE 11, 2000, AS A
Proclamation DAY TO HONOR CARLENE JONES".

Motion Adopted: 5 Yea.

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

M 269 00 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to authorize an
Authorize Executive Session to be held on this date immediately following the
Executive Session conclusion of the regular meeting for the purpose of discussing pending
Session litigation.

Motion Adopted: 5 Yea.

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

Assignment of Industrial Park Lease/Hol-Krist, L.L.C. Mr. Stickels discussed the assignment of an Industrial Park lease from the Edge Group, Inc. (formerly Thompson and Thompson/Edgehill Drugs, Inc. Warehouse/Corporate Office) to Hol-Krist, L.L.C. On December 14, 1999, the Sussex County Council approved the reassignment of the Edgehill Drugs, Inc. lease to Harvey Patrick and Taylorcraft 2000, L.L.C. Since that time, it has been decided that Taylorcraft 2000, L.L.C will not purchase the building; the building will be purchased by Hol-Krist, L.L.C. Hol-Krist, L.L.C will sub-lease the premises to Taylorcraft 2000, L.L.C. who propose to manufacture small aircraft and parts for larger aircraft. Taylorcraft 2000, L.L.C. and Hol-Krist, L.L.C. are controlled and managed by Harvey Patrick. Hol-Krist, L.L.C. will be required to abide by all of the terms of the existing lease agreement.

M 270 00 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to authorize the
Authorize Assignment of Lease/Hol-Krist, L.L.C. reassignment of a lease for Lots 24 and 25 at the Sussex County Industrial Park from the Edge Group, Inc. to Hol-Krist, L.L.C. a Maryland Limited Liability Company.

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

1. Traffic Calming Workshop

The Department of Transportation will be conducting a Traffic Calming Workshop on July 6, 2000, from 5:00 to 8:00 p.m. at the University of Delaware, Paradee Building, Route 113, Dover, Delaware. I would encourage the public to attend this workshop. I am not sure many people in the State are aware of the new regulations that are being proposed by the Department of Transportation regarding traffic calming.

2. Milton Public Library

The Milton Public Library will be holding a commemorative stamp second-day issue celebration as part of the Library of Congress Bicentennial on Saturday, June 10, 2000, from 9:00 a.m. until 3:00 p.m. at the 11th Annual Delmarva Hot Air Balloon and Craft Festival, Milton, Delaware. All are invited to attend this event, during which a commemorative postage stamp created for the Library of Congress Bicentennial will be available at the Milton Public Library station.

3. Job Fair

The State Personnel Office will be holding a Job Fair on Saturday, June 17, 2000, from 9:00 a.m. to 1:30 p.m. at Delaware Technical & Community College, Owens Campus, Route 18, Georgetown, Delaware. There will be 15 State agencies represented, a workshop on "How To Fill Out A State Application," and employment counseling on a first-come, first-serve basis. Additional information regarding the Job Fair may be obtained by calling 856-5966.

Addendum
to 3D
Imaging,
L.L.C.
Rural Re-
addressing
Contract

Mr. Norwood, Supervisor of Mapping and Addressing, and Mr. Garcia of 3D Imaging, L.L.C., discussed an amendment to an Agreement between Sussex County and 3D Imaging, L.L.C., dated January 28, 1997, with respect to mapping and addressing services for the Enhanced 911 emergency and telephone service. Sussex County Council's decision that it is unnecessary to assign new addresses to structures located in existing subdivisions has necessitated modifications to the scope of the agreement and the cost thereof. It will now be necessary for a determination to be made as to whether or not subdivisions need to be re-addressed or not; this will result in a re-evaluation of 60 percent of Sussex County that has already been addressed.

Proposed contract revisions are as follows:

Addendum to 3D Imaging, L.L.C. Rural Re-addressing Contract (continued)	Original Agreement	\$624,260
	Credit for Property Card Input and Database	(\$ 23,940)
	Additional Costs for Subdivision Addressing	<u>175,000</u>
	Net Change Order	\$151,060
	Revised Contract Limit	\$775,320

Mr. Phillips expressed his opinion that he will not support additional funding for this project; that the project is taking too long; and that there appears to be inefficiencies in the project.

Mr. Phillips questioned why addresses couldn't be delivered to the other 40 percent of the County – to those people who do not live in subdivisions. Mr. Norwood responded that a systemic method of delivering addresses is planned to avoid having personnel backtrack to areas where addresses have already been delivered.

M 271 00
Amend
Agreement
with 3D
Imaging,
L.L.C.

A Motion was made by Mr. Cole, seconded by Mr. Jones, to amend the Agreement between Sussex County Council and 3D Imaging, L.L.C., in the amount of \$151,060, resulting in a revised contract limit of \$775,320.

Motion Adopted: 4 Yea, 1 Nay.

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

Mr. Dukes expressed other concerns relating to this project: (1) recent changes in zip codes that are illogical and (2) road signs that have not been put up for road name changes that were adopted in August.

Public
Hearing/
Ordinance
Pertaining
to Employee
Pension
Plan

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AMENDING THE SUSSEX COUNTY ORDINANCE PERTAINING TO THE EMPLOYEE PENSION PLAN BY PROVIDING THAT PARAMEDICS OR EMERGENCY COMMUNICATIONS SPECIALISTS, INCLUDING MANAGEMENT PERSONNEL CERTIFIED IN SUCH SPECIALTIES, MAY RETIRE WITH AT LEAST TWENTY-FIVE (25) YEARS SERVICE, BY PROVIDING THAT EMPLOYEES HIRED AFTER JULY 1, 2000 WILL BE REQUIRED TO HAVE A MAXIMUM OF TWENTY-FIVE (25) OR THIRTY (30) YEARS FOR BENEFITS, AND BY PROVIDING THAT INDIVIDUALS RECEIVING A PENSION MAY BE EMPLOYED PART-TIME FOR NO MORE THAN 520 HOURS PER YEAR". There were no public comments and the Public Hearing was closed.

M 272 00
Adopt
Ordinance
No. 1375

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt Ordinance No. 1375 entitled "AN ORDINANCE AMENDING THE SUSSEX COUNTY ORDINANCE PERTAINING TO THE EMPLOYEE PENSION PLAN BY PROVIDING THAT PARAMEDICS OR EMERGENCY COMMUNICATIONS SPECIALISTS, INCLUDING MANAGEMENT PERSONNEL CERTIFIED IN SUCH SPECIALTIES, MAY RETIRE WITH AT LEAST TWENTY-FIVE (25) YEARS SERVICE, BY PROVIDING THAT EMPLOYEES HIRED AFTER JULY 1, 2000 WILL BE REQUIRED TO HAVE A MAXIMUM OF TWENTY-FIVE (25) OR THIRTY (30) YEARS FOR BENEFITS, AND BY PROVIDING THAT INDIVIDUALS RECEIVING A PENSION MAY BE EMPLOYED PART-TIME FOR NO MORE THAN 520 HOURS PER YEAR".

Motion Adopted: 5 Yea.

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

Public
Hearing/
General
Obligation
Bonds

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION DEBT OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF FACILITIES FOR: THE CEDAR NECK AND OCEAN VIEW EXPANSIONS OF THE BETHANY BEACH SANITARY SEWER DISTRICT, THE HOLTS LANDING SANITARY SEWER DISTRICT, THE REGIONAL IMPROVEMENTS TO THE SOUTH COASTAL REGIONAL WASTEWATER TREATMENT FACILITY AND THE NORTH MILLVILLE SEWER IMPROVEMENTS; AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH". This Ordinance expresses the County's intent to amend Ordinance No. 1309 adopted by the Sussex County Council on May 25, 1999 and authorizes the inclusion of the improvements to the Cedar Neck Expansion to the Bethany Beach Sanitary Sewer District as one of the Projects to be financed under the general obligation bonds authorized pursuant to Ordinance No. 1309 and to reduce the amount of authorized bonds to \$13,752,100. There were no public comments and the Public Hearing was closed.

M 273 00
Adopt
Ordinance
No. 1376

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1376 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION DEBT OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF FACILITIES FOR: THE CEDAR NECK AND OCEAN VIEW EXPANSIONS OF THE BETHANY BEACH SANITARY SEWER DISTRICT, THE HOLTS LANDING SANITARY SEWER DISTRICT, THE REGIONAL IMPROVEMENTS TO THE SOUTH COASTAL REGIONAL WASTEWATER TREATMENT FACILITY AND THE NORTH MILLVILLE SEWER IMPROVEMENTS; AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

M 273 00
(continued)

Motion Adopted: 5 Yea.

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

M 274 00
Grant
Substantial
Completion/
Holland
Glade
Contract

A Motion was made by Mr. Dukes, seconded by Mr. Jones, based on the recommendation of the Consulting Engineer, George, Miles & Buhr, LLP, and the Sussex County Engineering Department, that effective May 31, 2000, the Sussex County Council grants Substantial Completion to Teal Construction, Inc. for Sussex County Project No. 96-03, Contract WIII-4, Holland Glade, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yea.

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

M 275 00
Authorize
Agreements/
The
Pavilions II

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, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Linder and Company, Inc. for wastewater facilities to be constructed to serve The Pavillions II, located in the Proposed North Millville Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 276 00
Authorize
Agreements/
Wolfe
Pointe

A Motion was made by Mr. Dukes, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Wolfe Pointe, LLC, for wastewater facilities to be constructed to serve Wolfe Pointe, located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 277 00
Grant
Beneficial
Acceptance/
Villages of
Old Landing

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, that the Sussex County Council grant Beneficial Acceptance for the wastewater facilities constructed in Villages of Old Landing, Phase IV, located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Attendees Mr. Bayard left the meeting.

Attendees Mr. Schrader, Assistant County Attorney, joined the meeting.

Conflict of Interest Mr. Rogers and Mr. Cole did not participate in the discussion on Change of Zone No. 1400 and Change of Zone No. 1401 due to a possible conflict of interest.

Presiding Mr. Dukes presided.

Old
Business/
C/Z No.
1400 and
C/Z No.
1401

Change of Zone No. 1400 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL 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 188.24 ACRES, MORE OR LESS" filed on behalf of Olde Towne Pointe, L.L.C., and Change of Zone No. 1401 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS" (Change of Zone No. 1401) filed on behalf of Olde Towne Pointe, L.L.C. were discussed. The Planning and Zoning Commission held a Public Hearing on these applications on April 6, 2000, at which time they recommended that the applications be approved; Change of Zone No. 1400 was recommended for approval with 26 stipulations. The County Council held a Public Hearing on these applications on May 9, 2000, at which time action was deferred for the purpose of receiving comments on a letter from DelDOT pertaining to two topics that were not raised at the Planning & Zoning Commission Hearing.

Mr. Lank read the proposed stipulations and findings of fact into the record.

M 278 00
Adopt
Ordinance
No. 1377
(C/Z
No. 1400)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1377 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND C-1 GENERAL COMMERCIAL 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 188.24 ACRES, MORE OR LESS" (Change of Zone No. 1400) filed on behalf of Olde Towne Pointe, L.L.C., with the following stipulations:

1. The maximum number of residential units shall not exceed 586 comprised as follows: 260 single family lots, 144 apartments, 110 townhouses, and 72 condominiums.
2. Residential building permits shall be limited to 100 permits (cumulative) per year.
3. The RPC shall be served as part of the Sussex County Sewer System, Phase II of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
4. The RPC shall be served by a central water system providing water for consumption and fire protection per applicable regulations and approvals of DNREC, the State Fire Marshal, the Public Service Commission, and Public Health.
5. All entrance, intersection and roadway improvements required by DelDOT as set forth in DelDOT's letter dated November 2, 1999, shall be completed by the applicant in accordance with any further modification required by DelDOT.
6. Site plan review for each phase of the development shall be reviewed and approved by the Sussex County Planning and Zoning Commission.
7. Applicant will reconfigure town home section (units 17 through 30) to increase community common area and green space between townhouses as represented by applicant in public hearing record.
8. Applicant will reconfigure soccer field by the following changes: A) Remove 8 unit condominium building (reducing density from 594 units to 586 units); B) Reorient existing field to true north/south; C) Introduce a soccer pavilion with bathrooms, storage and weather shelter (see Revision Plan); Note: Soccer field and pavilion will be opened to public use and enjoyment.
9. Garden parks as shown on Revision Board will be constructed as shown.

M 278 00
(continued)

10. Applicant will provide the following recreational facilities: A) 8 tennis courts (one court every 75 units), B) 2 outdoor swimming pool facilities (first pool facility @ 80 units, second pool after 40 units of East Village), C) Multi-use field and soccer pavilion completed within 3 years of first residential building permit issued for West Village. This area will be open to public. (See revision drawing for deletion of 8 condo units) D) Pedestrian/bike park - build tot lot and play ground area located along pedestrian/bike path in East Village (completed within 2 years of first residential building permit issued for East Village) E) Community building - minimum 5,000 square feet building which will first serve as marketing center. Building can be expanded to meet community needs. (Completed within one year of first building permit issued for the project).
11. Western segment of DelDOT pedestrian/bike path, which is shown terminating at Dutch Acres, will be extended to Savannah Road.
12. Applicant will establish a 60' highway corridor overlay zone setback along the property fronting Savannah Road.
13. Applicant will install a 6' wide asphalt bike path along the property frontage at Savannah Road. Bike path will be installed within the 60' highway corridor overlay zone.
14. Applicant will install a 6' bike lane parallel to Route 269-A on the western section of the property. (Completed within four years of first building permit issued for the project.)
15. Applicant will establish a Reforestation program for a minimum of 8 acres located in the northwest corner of East Village area along Route 269-A (Reforestation will be in coordination with the storm water requirements for this area of the project and will be done over a 2-year period.
16. Applicant will establish minimum 40' non-disturbance buffers along eastern and western property lines.
17. To the extent possible, Applicant will relieve through its storm water management program, the drainage problem at northwest corner of Covey Creek. (Subject to approval of Covey Creek HOA).
18. Applicant will construct pedestrian walk lanes into parking scheme for the village shopping center as shown on site plan.
19. Applicant will construct a pedestrian and bike access between lots 13 and 14 of the East Village to connect to the B-1 area.

M 278 00
(continued)

20. Applicant will introduce and initiate through bank tenant, an attractive first time homebuyer program for this project that will expand the opportunity for home ownership.
21. Applicant will limit through deed restrictions the type of future use of 4.5 acres to community service (i.e. fire, police, EMS services, library, and museum. Note: Developer will maintain architectural and signage control of any facility).
22. Applicant will not make or propose to make any vehicular connections to either Covey Creek community to the East nor to Dutch Acres community to the West.
23. Applicant will design, and if approved, install a curb cut entrance to Bayside Health Associates medical building along DeIDOT Grid road through East Village.
24. Applicant will study, design and seek approval from DeIDOT, and construct a T-intersection improvement to the intersection of Westcoat's Corner and Savannah Road. (Criteria for proffer is to maintain existing tree growth to largest extent possible.)
25. Applicant will initiate a Developer Funded Transportation Plan in coordination with DeIDOT which purpose is to supplement the off-site road improvements required by DeIDOT. Plan will establish the following: A) Plan will educate, encourage and subsidize a portion of the cost of fares for the use of the DART system, which will have stops servicing this project. Developer subsidy will remain in effect through the issuance of the building permits and build out. B) Plan will incorporate a stop for the existing River and Bay Authority Shuttle service and participate with Authority in the future to expand service as demand increases. C) Plan will make available to off site projects which have special interest or positive impact on surrounding community funds from each existing settlement. Developer will escrow \$200.00 from each settlement to be dispersed as is deemed appropriate by Developer to appropriate community efforts involved in traffic and/or transportation improvement studies, traffic and/or transportation mitigation measures, or traffic calming efforts.
26. No site preparation, 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.

Motion Adopted: 3 Yea, 2 Not Participating.

M 278 00
(continued)

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Not Participating;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Not Participating

M 279 00
Adopt
Ordinance
No. 1378
(C/Z No.
1401)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1378 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS" (Change of Zone No. 1401) filed on behalf of Olde Towne Pointe, L.L.C.

Motion Adopted: 3 Yea, 2 Not Participating.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Not Participating;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Not Participating

Findings
of Fact

Findings of Fact for Change of Zone No. 1400 and Change of Zone No. 1401

The Council found that the change of zone from AR and C-1 Zoning Districts to MR-RPC and B-1 Districts with conditions was appropriate legislative action based upon the following findings of fact:

A. The proposed development's location is appropriate for MR/RPC zoning and B-1 zoning.

1. MR Zoning is appropriate for this parcel of land. The purpose of such zoning is to provide medium-density residential development in areas expected to become generally urban in character and where central water and sewer may be available. The application is consistent with the stated purpose of MR zoning.
2. A Residential Planned Community (RPC) designation is appropriate for this parcel of land. The purpose of an RPC is to encourage large scale developments using design ingenuity to create superior living environments while protecting existing and future developments and achieving the goals of the Comprehensive Plan. This application is consistent with the stated purpose of an RPC zoning designation.
3. The B-1 zoning designation is appropriate for ten (10) acres of the development. The purpose of the B-1 district is to provide retail and service uses to serve the needs of a relatively small area. This application is consistent with that purpose.

Findings
of Fact
(continued)

- B. The proposed development is in accordance with the 1997 Sussex County Comprehensive Plan in that:
1. It is located in the designated development district where future growth is directed.
 2. The site is located in an area served by County sewer and central water where future growth is anticipated.
 3. The development is consistent with the Plan's housing element and community design element in that it provides a range of housing for permanent residents and second homeowners to serve the existing and projected demand for housing in the area. The Plan projects an increase in the number of households during the 1990 to 2020 time period from 43,483 to 73,292 establishing a need for additional housing units.
 4. The 586 units proposed is less than that permitted by the RPC Ordinance and significantly less than that recommended by the Plan, which states that with public sewer, 4 units per acre is appropriate for single-family units, 10 units per acre for townhouses, and 12 units per acre for multi-family housing.
 5. The Plan recognizes that higher residential density is appropriate for sites in the development district in order to obtain the Plan's goal of preserving agricultural areas by concentrating development in the planned development district.
 6. The site is consistent with the development patterns recognized in the State of Delaware's proposed strategies for State Policies and Spending and is located in a multi-modal investment area under DelDOT's Statewide Long Range Transportation Plan.
 7. Other adequate utility services, medical facilities and shopping areas are available near the site.
 8. The development will have no negative impact on area schools and will contribute substantial funds toward the school's operations.
 9. The development will provide a substantial direct economic impact to the County in terms of jobs, payrolls, sewer fees, school taxes, property taxes, and transfer taxes and will provide a substantial secondary economic impact to area businesses.

Findings
of Fact
(continued)

10. The Office of State Planning Coordination, by letter dated April 4, 2000, stated that the State of Delaware has no objection to the requested change of zone. The conditions of approval address the comments of the office of State Planning Coordination regarding compliance with entrance, roadway, intersection, bike path and bus service requirements recommended by DelDOT and stormwater management recommendations of DNREC.
11. The Sussex County Planning & Zoning Commission on April 27, 2000 by a vote of five in favor and none against recommended approval of the requested change of zone subject to conditions.
12. The property is located in an existing mixed commercial/residential area designated as the development district and the proposed development will have no adverse effect on the uses or values of existing property and will conserve property values.
13. Natural resources will be conserved and there will be no adverse environmental impact on the site. Central sewer and water will be provided, storm water management will be designed in full compliance with the requirements of all State and County agencies. Reforestation of the woodland area will enhance wildlife habitat and provide natural areas.
14. There is a need for housing in the area for year round residents and second homeowners. In particular, the development will provide a full range of housing opportunities for several income and age groups.
15. The proposed residential density of the MR/RPC is approximately the same as that which could actually be developed under the site's current zoning and is generally consistent with existing residential density in the area.
16. The density and design of the development will provide residential housing at an appropriate density in a planned development area thus providing protection of agricultural lands elsewhere in the area.
17. The public will benefit from the use of the bike and walking trails and soccer complex, which will be open to the public thereby providing recreational opportunities to area residents.
18. The findings and conclusion stated herein are based on substantial evidence comprised of the reasons stated above, the testimony and evidence presented by the applicant, and the findings of the Planning and Zoning Commission's recommendation of approval.

Attendees Mr. Rogers and Mr. Cole rejoined the meeting.

Old
Business/
C/U
No. 1278

Conditional Use No. 1278 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR 48 MULTI FAMILY DWELLING UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 8.08 ACRES, MORE OR LESS" filed on behalf of Silver Properties, L.L.C. was discussed. The Planning and Zoning Commission held a Public Hearing on this application on April 22, 1999; the Commission recommended approval of multi-family use, not townhouse sales, and with the stipulation that the site plan be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals. The County Council held a Public Hearing on this application on May 11, 1999, at which time action was deferred. Litigation has been pending on this application and Council continued to defer action until a decision was rendered. In a letter received from the law offices of Young, Malmberg, Whitehurst & Curley, P.A., dated May 17, 2000, Council was advised that the courts have ruled in favor of Silver Properties' equitable right in the property.

M 280 00
Adopt
Ordinance
No. 1379
(C/U
No. 1278)

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1379 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR 48 MULTI FAMILY DWELLING UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 8.08 ACRES, MORE OR LESS" (Conditional Use No. 1278) filed on behalf of Silver Properties, L.L.C., with the following stipulations:

1. The maximum number of residential units shall not exceed 4 units per acre.
2. Access to the development shall be from Route One; there shall be no access to or from Delphany Drive.
3. DelDOT's requirements, listed in a letter dated March 11, 1999, shall be incorporated into the site plan.
4. Off-street parking shall comply with the County's current ordinance, which requires 3 spaces per unit.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

Findings
of Fact

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

1. The four units per acre is more appropriate density consistent with the Comprehensive Land Use Plan and neighboring single family developments.
2. The property is located in the Development District.
3. The application is in accordance with the County's sewer study, which shows that the overall planning area has a capacity of 4 units per acre.
4. The conditional use promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.
5. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Old
Business/
C/U No.
1333

Conditional Use No. 1333 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RACE TRACKS – HORSES AND STOCK CARS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 81.84 ACRES, MORE OR LESS" filed on behalf of Alburn, Inc., t/a Sea Coast Speedway. The Planning and Zoning Commission held a Public Hearing on this application on May 4, 2000; the Commission recommended that the application be denied. The Sussex County Council held a Public Hearing on this application on May 23, 2000, at which time they deferred action to await a recommendation from the Commission.

M 281 00
Adopt
Proposed
Ordinance
(C/U
No. 1333)

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RACE TRACKS – HORSES AND STOCK CARS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 81.84 ACRES, MORE OR LESS" (Conditional Use No. 1333) filed on behalf of Alburn, Inc., t/a Sea Coast Speedway.

Motion Denied: 5 Nay.

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

**Findings
of Fact**

The Council found that the conditional use was not appropriate legislative action based on the following findings of fact:

1. The proposed conditional use is not in accordance with the Comprehensive Plan since the site is not located in a Development District; since the site is adjacent to and in close proximity to Agricultural Preservation Districts; since the Comprehensive Plan suggests that only limited retail and commercial/business uses for convenience shopping should be permitted in an Agricultural Residential District; since the use is not compatible with the residential and agricultural surroundings of the area; and since public water and wastewater systems do not exist nor are they planned for the area.
2. The record of concerns expressed by parties in opposition, including but not limited to, the change in the numbers of days that activities will take place on the site, from a couple of nights per month to daily for a harness racing season with possible Sunday racing; that the race track will not be beneficial to area residents; that the use is not in keeping with the residential and agricultural neighborhood; possible depreciation of property values; and increased traffic.
3. There may be potential traffic impacts associated with the proposed race track at the intersections of U.S. Route 113 and Road 325, U.S. 113 and Road 321, Road 48 and Road 326 and Road 325, and the intersection of Road 321 and Road 325.
4. The existing stock car track facility is a pre-existing non-conforming use operating occasionally a few times a month causing little impact on the neighborhood, and that adding a harness track, with the scheduling of a continuous racing season over several months may cause a negative impact on the residential character of the area.
5. The proposed conditional use is not for the general convenience and welfare of the inhabitants of Sussex County and the use cannot be well adjusted to this location and give full protection to surrounding properties, and cannot preserve and protect the character of the community.

**Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A HOT DOG CART FOR RETAIL SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.56 ACRES, MORE OR LESS" (Conditional Use No. 1347) filed on behalf of Klasik Karts. 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 A GR GENERAL RESIDENTIAL DISTRICT FOR A 180 FOOT HIGH LATTICE COMMUNICATION TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, ON A 3.600 SQUARE FOOT LEASED PORTION OF A 57 ACRE TRACT" (Conditional Use No. 1348) filed on behalf of C-SW Cellular Partnership. The Proposed Ordinance will be advertised for Public Hearing.

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 GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 2.04 ACRES, MORE OR LESS" (Change of Zone No. 1410) filed on behalf of Karen Z. Bowden. The Proposed Ordinance will be advertised for Public Hearing.

M 282 00 Councilmanic Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, that funds from Mr. Cole's Councilmanic Account which were awarded to the Town of Selbyville, on February 8, 2000, for pool expenses, be redirected for use at the ballfield.

Motion Adopted: 5 Yea.

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

M 283 00 Councilmanic Grant

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$100.00 from Mr. Jones' Councilmanic Account to the National Teenager Scholarship Foundation for sponsorship of Aimee Parker as Miss Delaware National Teenager.

Motion Adopted: 5 Yea.

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

M 284 00 Councilmanic Grant

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$200.00 from Mr. Jones' Councilmanic Account to the Sussex Central Wrestling Boosters for Lewis Day to travel to Holland and Germany as a member of the United States People to People Sports Ambassadors Program.

Motion Adopted: 5 Yea.

M 284 00
(continued)

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

M 285 00
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$500.00, \$100.00 from each Councilmanic Account, to The Auxiliary of Stockley Center for the Stockley Stride.

Motion Adopted: 5 Yea.

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

M 286 00
Recess

At 12:50 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess and go into Executive Session. Motion Adopted by Voice Vote.

Executive
Session

An Executive Session of the Sussex County Council was held Tuesday, June 6, 2000, at 12:55 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, for the purpose of discussing pending litigation. The following were present:

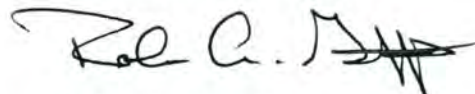
Lynn J. Rogers	President
Dale R. Dukes	Vice President
George B. Cole	Member
Finley B. Jones, Jr.	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Eugene Bayard	County Attorney
Dennis Schrader	Assistant County Attorney
Michael Izzo	County Engineer
Robert Green	Director of Utility Construction
Dennis Hasson	Whitman, Requardt & Associates
Jim Avirett	Whitman, Requardt & Associates

The Executive Session concluded at 1:30 p.m.

M 287 00
Adjourn

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to adjourn the meeting. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council