

SUSSEX COUNTY COUNCIL, GEORGETOWN, DELAWARE, JUNE 19, 2001

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 19, 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
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 339 01 A Motion was made by Mr. Phillips, seconded by Mr. Jones, to approve the
Approve Agenda, as distributed.
Agenda

Motion Adopted: 4 Yea, 1 Absent.

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

M 340 01 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the
Approve minutes of the June 5, 2001 meeting, as distributed.
Minutes

Motion Adopted: 4 Yea, 1 Absent.

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

Corre- Mr. Bayard read the following correspondence:
spondence

MAYFAIR HIGH SCHOOL, LAKEWOOD, CALIFORNIA.

RE: Letter in appreciation of Council's financial support of Slam Dunk to the Beach.

COATESVILLE AREA SENIOR HIGH SCHOOL, COATESVILLE, PENNSYLVANIA.

RE: Letter in appreciation of Council's financial support of Slam Dunk to the Beach.

Corre-
spondence
(continued)

JOHN N. LARRIVEE, DEPUTY STATE HISTORIC PRESERVATION OFFICER, STATE OF DELAWARE, DEPARTMENT OF STATE, DIVISION OF HISTORICAL AND CULTURAL AFFAIRS, HISTORIC PRESERVATION OFFICE, DOVER, DELAWARE.

RE: Announcement that the Ross Point School #215C was approved by the Delaware State Review Board for Historic Preservation for listing in the National Register of Historic Places. The nomination will be forwarded to the National Park Service in Washington, D.C. for final approval and listing.

MADD/
PBT
Presentation
to
Delaware
State
Police

Ms. Dolly Banks, representing the Delaware Chapter of Mothers Against Drunk Driving (MADD), was in attendance to present three hand-held breath alcohol testing devices (PBTs) to the Delaware State Police. Ms. Banks stated that the PBTs are new technology that will assist officers in detecting those persons driving under the influence of alcohol. She stated that this donation is being made to achieve MADD's mission of preventing further death and injury on Delaware Highways. Captain Hughes of the Delaware State Police was in attendance to accept the PBTs. He noted that the Sussex County Council provided funding for the purchase of one of the PBTs.

Adminis-
trator's
Report

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

1. Delaware Department of Transportation Long-Range Transportation Plan

A reminder that the DelDOT Long-Range Transportation Plan Committee, both Technical Advisory Committee and Public Advisory Committee, will be meeting at the Higher Education Building, Delaware Technical & Community College, Jack F. Owens Campus, Georgetown, Delaware, on Wednesday, June 20, 2001, at 8:00 a.m. to help formulate DelDOT's Long-Range Transportation Plan for Sussex County. Although the public is not allowed to participate in this daylong workshop, they are capable of attending, along with the media.

2. Delaware Department of Transportation SR-1 Land Use Transportation Study

Please be advised that on Wednesday, June 27, 2001, DelDOT will be holding the first SR-1 Land Use Transportation Study meeting in the Lewes Library, Lewes, Delaware, starting at 7:00 p.m. The public, as well as the media, is encouraged to attend the first meeting of this group.

Magazine
Article

Mr. Phillips referred to an article in the December 2000 issue of American City & County entitled "Elevated lanes expected to ease congestion". Mr. Phillips asked that the article be forwarded to the DelDOT Long-Range Transportation Committee.

Old
Business/
(C/Z
No. 1432)

Change of Zone No. 1432 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.291 ACRES, MORE OR LESS" filed on behalf of David A. Ritter was discussed.

A Public Hearing was held by the Planning and Zoning Commission on April 19, 2001, at which time they deferred action for the purpose of receiving additional information relating to permits and violation notices. On May 24, 2001, the Planning and Zoning Commission recommended that the application be denied.

The Sussex County Council held a Public Hearing on May 15, 2001, at which time they deferred action and left the record open for letters from the Sussex County Building Code Department, the State Fire Marshal's Office, and the Sussex Conservation District.

Council discussed the violation notices that the applicant has received on his boat sales and service business on Route 24 in Long Neck. They discussed the opening of the business in a residential district prior to obtaining the required commercial zoning and the illegal placement of the fence, the boat-lift, and the construction of the garage addition. It was also noted that signage has been installed on the garage and erected along Long Neck Road without permits.

Mr. Stickels advised that Mr. Ritter pleaded guilty to disregarding zoning regulations in Magistrate Court on Friday, June 15, 2001, with the following fines imposed: a \$3,750 fine for being in violation of County ordinance, a \$600 violent crime contribution, \$300.00 for court costs, and a \$1.00 video fee (for a total of \$4,381). It was noted that Mr. Ritter is being fined \$100.00 a day and will continue to be fined until the matter is resolved.

Mr. Dukes questioned the method by which persons in violation of County ordinance are notified. He expressed concern that in this instance, the original landowner, and not Mr. Ritter, was notified of the violation.

Mr. Lank, Director of Planning and Zoning, advised Council that the process to determine ownership is based on assessment records and that at the time of the violation, the records did not indicate that Mr. Ritter was the landowner.

Councilmembers expressed concern that approving this application would set a negative precedent for other persons to disregard zoning regulations.

M 341 01
Adopt
Proposed
Ordinance

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL

M 341 01
Adopt
Proposed
Ordinance
(C/Z
No. 1432)
(continued)

COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.291 ACRES, MORE OR LESS” (Change of Zone No. 1432) filed on behalf of David A. Ritter.

Mr. Dukes called for the vote on the Motion.

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

Table
/
Withdraw
Motion

Mr. Stickels suggested that the vote on the application be tabled until Mr. Cole is in attendance and able to participate in the vote.

Mr. Rogers and Mr. Jones withdrew their Motions.

M 342 01
Table
Proposed
Ordinance
(C/Z
No. 1432)

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to table the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.291 ACRES, MORE OR LESS” (Change of Zone No. 1432) filed on behalf of David A. Ritter.

Motion Adopted: 4 Yea, 1 Absent.

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

Draft
Ordinance

Council directed Mr. Bayard and Mr. Schrader to draft an ordinance that would give the County more forceful cease and desist powers.

Sussex
County
Fiscal
2002
Budget

Mr. Stickels highlighted detailed information contained in Sussex County’s Fiscal 2002 operating budget by means of a power point presentation.

The theme of the FY 2002 budget is “Realistic Expectations”.

FY 2002 is the 12th straight consecutive year without a tax increase from the County’s rate of \$.4450 per \$100 of taxable assessed valuation.

The \$77.5 million budget represents a 3.8 percent decrease from the Fiscal Year 2001 Budget of \$80.6 million. The proposed 2002 year budget consists of \$31.2 million in General Fund operating expenditures and an Operating Reserve of 25 percent, or \$7 million.

Fiscal
2002
Budget
(continued)

Highlights of the proposed Fiscal 2002 Budget are as follows:

- No tax or user fee increases.
- Establishment of a Capital Improvement Fund.
- Internet accessibility.
- Continued elimination of tax-supported General Fund debt.
- Commencement of revisions to the Land Use Plan.
- Funding assistance for Poultry Engineer.
- Water, sewer, and septic assistance programs for low-income residents.
- Expand central sewer service.
- Revenue Sharing for local governments.
- Computerize bookmobile.
- Fully funded pension liability.
- Expansion of the Milton Library.
- Airport expansion.
- General Fund grant for sewer districts.
- 25 percent "Rainy Day Fund".
- 3.72 percent budget increase.

Public
Hearing/
Fiscal
2002
Budget

A Public Hearing was held on the Sussex County Fiscal 2002 Budget for General Fund, Bond Issues, Community Development and Housing Grant Programs, Specialized Transportation Program, Sewer and Water Districts, and Capital Improvement Programs as outlined in the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2002".

Public comments were heard. Mr. Kramer addressed Council and questioned Mr. Phillips on a comment he made at a previous Council meeting pertaining to the County's \$10 million surplus. Mr. Phillips responded that his referral to a \$10 million surplus was a cumulative surplus over three years.

Mr. Stickels explained that \$7 Million is the unobligated reserve for FY 2002.

Mr. Kramer questioned why the audit does not match the budget amount. Mr. Baker explained that in governmental accounting there are two income statements for the General Fund.

Sheriff Reed addressed Council regarding the cut in his budget from \$199,802 to \$183,131. He stated that he is trying to keep well trained deputies on staff and that it is difficult to do without paying appropriate salaries. The Sheriff stated that he needed an additional \$13,017 for raises for deputies. Mr. Baker noted that the total increase would need to be approximately \$18,000 (with benefits and taxes included). Sheriff Reed emphasized that this is the only item that he is asking for an increase in. Mr. Stickels noted that the Sheriff's request would require a decrease of \$18,000 from General Fund Contingency.

Public
Hearing/
Fiscal
2002
Budget
(continued)

Public comments were also heard relating to property tax exemptions for farm buildings and funding for a police department in the Town of Frankford.

Mr. Stickels read the following correspondence:

GEORGE COLE, SUSSEX COUNTY COUNCILMAN.

RE: Memorandum to Mr. Stickels encouraging Council to continue to support grants and subsidies for the sewer districts, and asking that consideration be given to allow funding from the undesignated fund balance to be used for additional state police in Sussex County.

ROBERT JACOBS, SLAM DUNK TO THE BEACH.

RE: Letter requesting \$35,000 in funding for Slam Dunk to the Beach.

DR. WILLIAM CARTER, TAP PROJECT.

RE: Letter requesting \$25,000 in funding for a technical assistance program for teachers.

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

Public
Hearing/
Assessment
Rolls

A Public Hearing was held on the Assessment Rolls for Dewey Beach Water District, Dewey Beach Sanitary Sewer District, Bethany Beach Sanitary Sewer District, South Bethany Sanitary Sewer District, Fenwick Island Sanitary Sewer District, Blades Sanitary Sewer District, North Bethany Expansion of the Bethany Beach Sanitary Sewer District, Henlopen Acres Sanitary Sewer District, Long Neck Sanitary Sewer District, Dagsboro – Frankford Sanitary Sewer District, West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Holts Landing Sanitary Sewer District, Ocean View Expansion of the Bethany Beach Sanitary Sewer District, and Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District.

Public comments were heard. Comments were heard from one person who stated that it is unfair and unjust to pay sewer fees for vacant lots; that variances should be given for fees associated with vacant lots; and that she is having to pay for pipe installed on her vacant lot to service a 300-home development down the road.

Mr. Stickels responded that \$8.3 million in Realty Transfer Tax funds has been allocated in the Proposed Fiscal Year 2002 budget for the purpose of lowering costs in various sewer and water districts. Mr. Stickels noted that this is the second consecutive year that the County has lowered the cost for the West Rehoboth Sewer District.

Mr. Stickels advised that in the Proposed Fiscal Year 2002 budget, \$2.6 million is being recommended for subsidies, as follows: Bay View Estates - \$75,000; Cedar Neck - \$150,000; Millville - \$25,000; Ocean View - \$75,000; Blades - \$31,176; Dagsboro–Frankford - \$160,856; Dewey Sewer - \$43,280; Dewey Water - \$212,508; Ellendale - \$150,000; Henlopen Acres - \$17,413;

Public Hearing/
Assessment
Rolls
(continued)

Long Neck - \$62,098; Oak Orchard - \$100,000; South Coastal Regional Wastewater Facility - \$678,863; West Rehoboth - \$636,306; Pinetown - \$25,000; and County-wide Sewer and Septic Relief Program - \$25,000.

The Public Hearing was closed.

Public Hearing/
Proposed Ordinance/
Annual Service Charges,
Annual Assessment Rates, Etc.

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS".

Mr. Baker pointed out that there are no increases in any rates; however, there are decreases in the Bethany and South Bethany districts, including Sussex Shores, North Bethany, Ocean Way Estates, and Holts Landing. Reduced service charges are proposed for these districts (\$195.10 per year). Mr. Baker pointed out that the County is trying to develop one rate for all districts served by the South Coastal Regional Wastewater Facility for the following reasons: to improve the administrative efficiency; there will be less cost allocations; and it will help the smaller districts by spreading costs over more users. The service charge reductions range from 5% to 34%. Mr. Baker advised that the other reduction is for the West Rehoboth sewer expansion project. The current front foot assessment rate is \$4.99 per front foot; the new rate is \$4.79, a .20 cent (4%) decrease.

Mr. Baker advised that there are no increases or decreases proposed in any of the districts for system connection charges. The only exception to this is for the Holts Landing Sanitary Sewer District where a transmission charge has been added which will be applicable to new growth if there are expansions to that sewer district.

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

M 343 01
Adopt Ordinance
No. 1469

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1469 entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2002", as presented, to include a property tax rate of 44.5¢ per \$100.00 of assessed value; a capitation rate of \$3.00; a fireman enhancement funding rate of 1/4 of 1% of building costs; a property tax subsidy program; a sewer loan grant program; and requiring not less than 4/5 of the members of the Sussex County Council to approve transfers from the Undesignated General Fund Balance.

Motion Adopted: 4 Yea, 1 Absent.

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

M 344 01 A Motion was made by Mr. Jones, seconded by Mr. Rogers, that the Sussex
Adopt County Council hereby adopts the assessment rolls for all Sussex County
Assessment Sanitary Sewer and Water Districts, as presented on June 19, 2001, for the
Rolls period of July 1, 2001 to June 30, 2002.

Motion Adopted: 4 Yea, 1 Absent.

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

M 345 01 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt
Adopt Ordinance No. 1470 entitled "AN ORDINANCE ESTABLISHING ANNUAL
Ordinance SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR
No. 1470 COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND
 CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND
 SANITARY SEWER DISTRICTS".

Motion Adopted: 4 Yea, 1 Absent.

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

South Mr. Archut, Assistant County Engineer, discussed a contract amendment with
Coastal George, Miles & Buhr for design construction administration and construction
Regional coordination work at the South Coastal Regional Wastewater Treatment
Wastewater Facility. Council previously approved a contract with George, Miles & Buhr
Facility/ for \$212,803 to cover this work, which included the use of an existing pump
Contract station. Mr. Archut advised that, as the design work progressed, it was
Amendment/ determined that a new pump station was required. In addition, due to the fact
George, that the Engineering Department is refining their electrical requirements for
Miles pumping stations, there has been an increase in the level of design detail
& Buhr needed on the electrical parts. Mr. Archut stated that George, Miles & Buhr
 has submitted a request for an increase in their contract in the amount of
 \$9,689.00, which would raise the total contract to \$222,492. Mr. Archut noted
 that this amount is still below the budget estimate of \$251,000.

M 346 01 A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex
Amend County Council President is hereby authorized to amend an Agreement with
Agreement George, Miles & Buhr to provide additional design services for the Effluent
with Filter Expansion and Pump Station No. 100 upgrade and Force Main for the
George, South Coastal Regional Wastewater Facilities, in an amount not to exceed
Miles & \$9,689.00, subject to the review and approval of Rural Development, USDA.
Buhr/
SCRWF

Motion Adopted: 3 Yea, 2 Absent.

(continued) CONTAINING 68.2873 ACRES, MORE OR LESS” (Change of Zone No. 1443) filed on behalf of Merritt Burke III. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Rogers 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 HR-1/RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 29.15 ACRES, MORE OR LESS” (Change of Zone No. 1444) filed on behalf of T. William Lingo. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Dukes 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.79 ACRE, MORE OR LESS, OF A 3.86 ACRE TRACT” (Change of Zone No. 1445) filed on behalf of Sylvester and Ursula Capuano. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Phillips 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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.57 ACRE, MORE OR LESS, OF A 0.67 ACRE TRACT” (Change of Zone No. 1446) filed on behalf of David and Elizabeth Cox. The Proposed Ordinance will be advertised for Public Hearing.

M 348 01 Recess At 12:17 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

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

Public Hearing (C/U No. 1403) A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLUMBING AND HEATING BUSINESS WITH WAREHOUSE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.47 ACRES, MORE OR LESS” (Conditional Use No. 1403) filed on behalf of Richard W. Shaubach, Sr. and Marianne Shaubach.

Public
Hearing
(C/U
No. 1403)
(continued)

The Planning and Zoning Commission held a Public Hearing on this application on May 17, 2001 at which time they recommended approval with stipulations. The record of the Public Hearing held by the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. and Mrs. Shaubach and Mr. Fuqua, Attorney, were present on behalf of the application and stated that the site is located within a Development District with other commercial uses located in the general area; that the applicant has been in the plumbing business for 53 years; that the applicant lives in close proximity to the site; and that a need exists for a larger site.

A letter of support was read into the record. There were no public comments and the Public Hearing was closed.

M 349 01
Adopt
Ordinance
No. 1471
(C/U
No. 1403)

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Ordinance No. 1471 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLUMBING AND HEATING BUSINESS WITH WAREHOUSE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.47 ACRES, MORE OR LESS" (Conditional Use No. 1403) filed on behalf of Richard W. Shaubach, Sr. and Marianne Shaubach, with the following stipulations:

1. The hours of operation shall be from 6:00 a.m. to 8:00 p.m., Monday through Saturday, except for emergencies.
2. The proposed building shall not exceed 9,800 square feet as depicted on the site plan.
3. Security lighting shall be provided and directed so as not to intrude on neighboring properties.
4. A six-foot, stockade fence shall be erected to the rear of the building for the storage area.
5. One lighted sign, not to exceed 32 square feet per side or facing, may be permitted.
6. 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: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
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 consistent with the purposes and goals of the Comprehensive Land Use Plan, is located within a Development District, and is in an area with various commercial activities, and as a result, will have no adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1404)

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 AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 6.35 ACRES, MORE OR LESS" (Conditional Use No. 1404) filed on behalf of Dwayne Snyder.

The Planning and Zoning Commission held a Public Hearing on this application on May 17, 2001 at which time they recommended approval with stipulations. The record of the Public Hearing held by the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Snyder was in attendance on behalf of his application.

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

M 350 01
Adopt
Ordinance
No. 1472
(C/U
No. 1404)

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1472 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 6.35 ACRES, MORE OR LESS" (Conditional Use No. 1404) filed on behalf of Dwayne Snyder, with the following stipulations:

1. The hours of business shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, and 8:00 a.m. to 12:00 p.m. on Saturdays.
2. One unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.
3. The building shall not exceed 40-feet by 60-feet.
4. A screened dumpster shall be provided.

M 350 01
(continued)

5. No outside storage shall be permitted.
6. All waste shall be properly disposed of following all DNREC regulations.
7. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
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 consistent with the purposes and goals of the Comprehensive Land Use Plan, and with the conditions heretofore imposed, will have no adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1405)

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 OFFICES AND WOODSHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.26 ACRES, MORE OR LESS" (Conditional Use No. 1405) filed on behalf of Michael G. McCarthy.

The Planning and Zoning Commission held a Public Hearing on this application on May 17, 2001 at which time they recommended approval with stipulations. The record of the Public Hearing held by the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. McCarthy was in attendance on behalf of his application. Mr. McCarthy explained that the purpose of this application is to change from a home occupation to a conditional use since he has hired an employee.

Public comments were heard in support of the application. There were no comments in opposition to the application. The Public Hearing was closed.

M 351 01
Adopt
Ordinance
No. 1473

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1473 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OFFICES AND WOODSHOP TO BE

M 351 01
(continued)

LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.26 ACRES, MORE OR LESS” (Conditional Use No. 1405) filed on behalf of Michael G. McCarthy, with the following stipulations:

1. The hours of business shall be from 7:30 a.m. to 4:30 p.m. Monday through Friday.
2. No retail sales shall be permitted on the site.
3. No signage shall be permitted.
4. No outside manufacturing or storage shall be permitted.
5. The maximum number of employees at the site shall not exceed 10.
6. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
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 consistent with the purposes and goals of the Comprehensive Land Use Plan, and with the conditions heretofore imposed, will have no adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1406)

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 WELDING AND GENERAL REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.039 ACRES, MORE OR LESS” (Conditional Use No. 1406) filed on behalf of James L. Perdue.

The Planning and Zoning Commission held a Public Hearing on this application on May 17, 2001 at which time they recommended approval with stipulations. The record of the Public Hearing held by the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Public
Hearing
(continued)

Mr. Perdue was in attendance on behalf of his application.

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

M 352 01
Adopt
Ordinance
No. 1474
(C/U
No. 1406)

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Ordinance No. 1474 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR WELDING AND GENERAL REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.039 ACRES, MORE OR LESS" (Conditional Use No. 1406) filed on behalf of James L. Perdue, with the following stipulations:

1. All repair work shall be performed in the existing garage.
2. The hours of operation shall be from 6:00 p.m. to 9:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. on Saturdays.
3. One unlighted sign, not to exceed 32 square feet per side or facing, may be permitted.
4. No outside storage shall be permitted.
5. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
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 consistent with the purposes and goals of the Comprehensive Land Use Plan, and with the conditions heretofore imposed, will have no adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1401)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND

Public
Hearing
(C/U
No. 1401)
(continued)

LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.61 ACRES, MORE OR LESS” (Conditional Use No. 1401) filed on behalf of Randy Burton.

The Planning and Zoning Commission held a Public Hearing on this application on May 17, 2001 at which time they recommended that the application be denied since Bay Road is a narrow road and parking occurs on both sides of the road; since the majority of homes in the immediate area are single family dwellings; and since the use would be out of character with the neighborhood. The record of the Public Hearing held by the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Burton, applicant; Mr. Sergovic, Attorney; and Mr. Riccitelli of Meredian Consultants, were in attendance on behalf of the application.

Mr. Sergovic asked Council to consider the merits of the application, to consider applicable legal principles, and to consider some changes that have occurred since the Planning and Zoning Commission’s Public Hearing and decision. Mr. Sergovic advised that this site is located at the end of a subdivision and is an isolated piece of acreage; that the site is zoned GR General Residential; that the acreage was not subdivided; that there are no currently enforceable restrictive covenants; that in the adjacent subdivision, there is no “design” and there is a mixture of housing types; that this application is a conditional use for multi-family housing units; that the plan will preserve open space in the neighborhood; that the plan will provide for adequate parking; and that the site is located in a Development District. Mr. Sergovic advised that, since the Public Hearing held by the Planning and Zoning Commission, Mr. Burton has met with the community and in an effort to address their concerns, has made changes to his application. Mr. Sergovic explained that the original application called for 15 (fifteen) multi-family attached units – the new plan calls for 8 (eight) multi-family detached units. Mr. Sergovic stated that there is sewer capacity for the number of units now proposed. Mr. Sergovic noted that a lot of parking currently occurs along both sides of Bay Road since the existing homes have inadequate or no parking available which causes problems with respect to emergency vehicle turn-around and Mr. Burton proposes to allow emergency vehicle turn-around access at the entrance to the proposed site as an enhancement to the community.

There were no comments in support of the application.

Public comments in opposition of the application referred to traffic problems on Bay Road and the fact that Bay Road is a dead-end; concerns about the safety of children and pedestrians in the area; the lack of lighting and sidewalks in the area; emergency response problems; that development of the site would have a negative impact on the quality of life in the area; that there would be a negative impact on wetlands and wildlife; and that the site is located in a flood hazard area where flooding occurs now after periods of

Public
Hearing
(C/U
No. 1401)
(continued)

heavy rain and that additional development will only add to the problem.

Correspondence from Susan McCleary, Thomas Adams, Richard Anthony, and Brenda Grossgreen were submitted into the record.

The Public Hearing was closed.

Mr. Dukes expressed his opinion that the applicant has made a significant change in the plan that was presented to the Planning and Zoning Commission and that the applicant should be given the opportunity to go back to the Commission to present the amended plan for consideration.

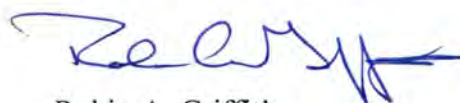
It was the consensus of Council to leave the record open and to direct Mr. Abbott, Assistant Director of Planning and Zoning, to submit copies of the revised site plan to the Planning and Zoning Commission; to ask the Commission to put the application back on the agenda as a matter of other business; to solicit comments from the Commission with respect to the plan and report back to Council with their findings/recommendation; and to have staff review the plan and report back to Council with their comments. In addition, it was the consensus of Council that the neighbors be permitted to review the revised plan and to submit comments, in writing, to the Sussex County Council. It was further the consensus of council that the applicant prepare and submit some proposed findings of fact and conditions.

The Public Hearing will remain open until the close of business (4:30 p.m.) on Monday, July 16, 2001. The application will be placed back on the Sussex County Council agenda on July 17, 2001.

M 353 01
Adjourn

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to adjourn at 4:00 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council