

M 317 00
Approve
Minutes

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to approve the minutes of the June 21, 2000 meeting, as distributed.

Motion Adopted: 5 Yea.

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

Corre-
spondence

Mr. Bayard read the following correspondence:

AIR QUALITY MANAGEMENT, DELAWARE DIVISION OF NATURAL
RESOURCES AND ENVIRONMENTAL CONTROL, DOVER, DELAWARE.
RE: Public Workshop announcement.

OCEAN ATLANTIC ASSOCIATES.

RE: Letter requesting that the Delaware Guidance Service application for conditional use be permitted to be withdrawn (Conditional Use No. 1337 filed on behalf of Preston Schell).

Presentation

Mr. Cole presented to Mr. Rogers a book entitled Effective Meetings.

M 318 00
Authorize
Executive
Session

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to authorize an Executive Session to be held immediately following the morning session, for the purpose of discussing pending litigation.

Motion Adopted: 5 Yea.

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

Appoint-
ment

Mr. Stickels informed Council that the appointments of John Hastings on the Planning and Zoning Commission and William Wheatley on the Board of Adjustment have expired. It was noted that Mr. Hastings does not wish to be reappointed.

M 319 00
Appoint
Benjamin
Gordy to
the Planning
and Zoning
Commission

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to appoint Benjamin Gordy to the Planning and Zoning Commission for a term of three years.

Motion Adopted: 5 Yea.

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

M 320 00
Reappoint
William
Wheatley
to the
Board of
Adjustment

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to reappoint William Wheatley to the Board of Adjustment for a term of three years.

Motion Adopted: 5 Yea.

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

Process to
Interview
Prospective
Appointees

Mr. Cole expressed his opinion that Council should adopt a process through which prospective appointees are interviewed in public session. This would give Council and the public an opportunity to find out where the appointee stands on particular issues.

Legislative
Update

Mr. Stickels provided a legislative update of 13 Senate Bills, 16 House Bills, and 1 House Resolution.

Adminis-
trator's
Report

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

1. Delaware Department of Transportation Public Workshop

The Delaware Department of Transportation is holding a Public Workshop to present facts and solicit comments regarding the proposed sidewalk improvements to State Route 1 (SR-1), from Dewey Beach to the Lewes and Rehoboth Canal. The meeting will be held on Thursday, July 13, 2000, between the hours of 4:00 p.m. and 8:00 p.m. in the Rehoboth Elementary School Cafeteria, 500 Stockley Street, Rehoboth Beach, Delaware.

The project consists of additional sidewalks on both sides of SR-1, median modifications, pavement and drainage improvements, intersection improvements, including the installation of a new traffic signal, and installation of pedestrian signals. The project limits are Saulsbury Street to the Lewes and Rehoboth Canal.

I would encourage residents of the area to attend this workshop.

2. Holiday Schedule

Sussex County offices will not be open Tuesday, July 4, 2000, to allow employees to observe Independence Day. There will not be a Council meeting on Tuesday, July 4. Offices will reopen 8:30 a.m. on Wednesday, July 5, 2000. The next regularly scheduled Council meeting is Tuesday, July 11, 2000, at 10:00 a.m. in the Council Chambers.

Public
Workshop

Mr. Stickels announced that the Planning and Zoning Commission will be holding a Public Workshop on Thursday, June 29, 2000, at 7:00 p.m. in the Sussex County Council Chambers for the purpose of (1) reviewing ordinances

Public
Workshop
(continued)

relating to subdivisions and Residential Planned Communities, (2) discussing the scheduling of agendas, (3) discussing vendors and (4) discussing any additional business brought before the Commission.

Pension
Fund
Update

Mr. Baker summarized the Pension Fund Committee meeting held on June 27, 2000. At the meeting, a report was reviewed showing the Pension Fund performance since 1994. During calendar year 1999, as of December 31, 1999, the fund returned 15.99 percent; from January 1, 2000 to May 31, 2000, the fund returned less than 1.0 percent. The return of less than 1.00 percent is due to the stock market situation; comparable indexes show a return of -1.3 percent. As of May 31, 2000, the fund was valued at \$16,857,775; the fund decreased in value \$7,565 since December 31, 1999. Mr. Baker noted that the pension fund is to be viewed as a long term investment with periods of ups and downs. Regarding the individual trustee returns, the Wilmington Trust return was -1.70 percent; Fidelity Investments was 0.42 percent; and the State of Delaware Local Government Retirement Investment Pool was 4.60 percent. For calendar year 1999, the individual trustee returns were as follows: the Wilmington Trust return was 18.29 percent; Fidelity Investments was 8.86 percent; and the State of Delaware Local Government Retirement Investment Pool was 15.99 percent. Mr. Baker expressed his opinion that diversification has benefited the fund.

Deferred
Compensation
Plan
Update

Mr. Baker reported that the Committee also reviewed information relating to the Deferred Compensation Plan. During calendar year 1999, the County added an additional provider for the Deferred Compensation Plan, a voluntary fund for employees to invest in. The County's current providers are VALIC and the NACo-sponsored PEBSCO Program. Twelve employees have signed up with VALIC and 95 have signed up with the PEBSCO Program.

Actuarial
Report

Mr. Baker discussed the County's actuarial report which includes a recommendation that a payment be made in the amount of \$524,000 plus a payment equal to 7.59 percent of payroll to completely fund the Pension Plan this year. Mr. Baker advised that these payments are incorporated in the Fiscal Year 2001 Budget. The actuarial report does note that the unfunded liability will be equal to \$0 if all of the assumptions are met, which includes a return on assets of 8 percent. Over the last five years, the County has earned a minimum of 8 percent per year on return on assets; in fact, the average has been 12 percent. Mr. Baker noted the tremendous progress that has been made during the last few years with contributions and investments. As of January 1, 1995, the unfunded actuarial liability was \$6,000,000 short. With the Fiscal 2001 contribution, the County expects to have \$0 unfunded liability.

Pension
Fund/
Bond
Investment
Recommendation
Pension

Mr. Baker reported that the Committee discussed a recommendation by Wilmington Trust pertaining to bond investments. Currently, approximately \$3 million is invested directly in U. S. Treasury and Agency Bonds. Wilmington Trust is suggesting that the County authorize them to invest in bonds that are up to five years in maturity versus 1 to 3 years. A higher yield would be achieved on average; however, the risk would increase slightly. The Pension Committee agreed with this recommendation.

Investments
(continued) Mr. Cole questioned the County's investment strategy and expressed concern over investing funds all at one time versus phasing the funds in over time.

M 321 00 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to authorize the
Authorize investment of pension funds in U. S. Treasury and Agency Bonds for terms that
Pension are up to five years in maturity, as recommended.
Fund

Investment Motion Adopted: 5 Yea.

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

Public A Public Hearing was held to consider issuing Industrial Revenue Bonds in the
Hearing/ principal amount not exceeding \$12,000,000 for the financing of a project for
Perdue- AgriRecycle, LLC, consisting of the acquisition, construction, and
IRB equipping of a 63,000 square foot building for the conversion of poultry manure into fertilizer. On February 29, 2000, the County Council adopted Resolution No. R 011 00 which authorized the issuance of the Bonds for the purpose of paying a portion of the costs of acquisition, construction, and equipping of the Project. The Bonds will be limited obligations of the County payable solely and exclusively by revenues of the project and shall mature no later than 30 years from the date of issuance. There were no public comments and the Public Hearing was closed.

M 322 00 A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt Resolution
Adopt No. R 025 00 entitled "A PROJECT RESOLUTION AUTHORIZING UP TO
Resolution \$12,000,000 INDUSTRIAL REVENUE BONDS (PERDUE-AGRIRECYCLE,
No. LLC PROJECT) SERIES 2000".

R 025 00 Motion Adopted: 4 Yea, 1 Abstention.

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

Change of Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO
Zone No. AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY
1402/ FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-
Blenheim RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL
Lands, LLC PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING
AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX
COUNTY, CONTAINING 106.68 ACRES, MORE OR LESS" (Change of
Zone No. 1402) filed on behalf of Blenheim Lands, L.L.C. The Planning and
Zoning Commission recommended approval of this application on April 13,
2000. The County Council held a Public Hearing on this application on May 2,
2000, at which time the Public Hearing was closed and the record was left open
to allow DelDOT to respond to references made by the opposition that some of

Change of
Zone No.
1402

the data used in a traffic impact study was based on assumed data. Responses to DelDOT's comments from the Citizen's Coalition and the Sierra Club were previously distributed to Council for review.

M 323 00
Adopt
Ordinance
No. 1382

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1382 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 106.68 ACRES, MORE OR LESS" (Change of Zone No. 1402) filed on behalf of Blenheim Lands, L.L.C., with the following conditions.

1. The maximum number of residential units shall not exceed 256 comprised as follows: 172 single family detached lots, and 84 townhouse lots.
2. The RPC shall be served as part of the Sussex County Sewer System, and is part of the West Rehoboth Wastewater Facility.
3. The RPC shall be served by a water company providing water for consumption and fire protection per applicable regulations and approvals of DNREC, the State Fire Marshal and the Public Service Commission.
4. All entrance, intersection and roadway improvements required by DelDOT, as set forth in DelDOT's letters dated April 6, 2000, and July 20, 1999, shall be completed by the Applicant.
5. Site plan for each phase of the development shall be reviewed and approved by the Sussex County Planning and Zoning Commission.
6. Applicant will provide the following recreational facilities upon the completion of 50 percent of the construction of the 84 townhouses and the sale of 50 percent of the 172 single-family homes:
 - a. Recreation Building/Clubhouse – approximately 5,000 square feet with an exercise room, sauna, multi-media studio, library-computer center, craft-hobby room, meeting-general purpose room, kitchen facility, and homeowner association office.
 - b. Tennis court.
 - c. Outdoor swimming pool.
 - d. Bocci court.
 - e. Badminton Court
 - f. Croquet court.
 - g. Horseshoes
 - h. Off-street parking.

M 323 00
(continued)

*Contingent on approval of the rezoning application and recordation of the proposed site plan.

7. Sidewalk and/or bikeway will be constructed along at least one side of each street in the community.
8. Applicant will limit through deed restrictions the type of residential use of this property to age-restricted community. The actual language will comply with the Fair Housing Act, will extend to renters, will prohibit rentals of less than one month, and in form and substance will carry out the applicant's representations to the reasonable satisfaction of the County Attorney.
9. If this plan is approved, recorded, and built, Applicant will not make a vehicular connection to Midway park, but will allow for only a pedestrian/bicycle connection to E. Isaacs Drive.
10. Applicant will not initiate a vehicular connection to Melson Drive through Dove Knoll, but will cooperate with DelDOT if that agency desires to use Bay Crossing as a link with its SR-1 Grid Concept.
11. Prior to recording the plan for any phase, Applicant will submit a landscape plan, prepared by a registered landscape architect.
12. Natural resources will be conserved and there will be no adverse environmental impact in that the site will provide a 50 foot buffer from State wetlands and will use the Federal wetlands boundary as a building setback line. Central sewer and water will be provided, stormwater management will be designed in full compliance with the requirements of all State and County agencies.

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 change of zone from AR to MR-RPC, with conditions, was appropriate legislative action based on the following findings of fact:

- A. The proposed development's location is appropriate for MR/RPC zoning.
 1. MR zoning is appropriate for this parcel of land. The purpose of the MR Zoning District 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.

Findings
of Fact
(continued)

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.
- 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 adjacent and nearby properties are already developed with extensive commercial and residential uses including a multi-family residential development.
 4. 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 home owners to serve the existing and projected demand for housing in the area. The Comprehensive Plan projects an increase in the number of households in Sussex County during the 1990 to 2020 time period from 43,483 to 73,292, establishing a need for additional housing units.
 5. The 256 units proposed are less than that permitted by the RPC Ordinance and significantly less than that permitted by the Comprehensive Plan, which states that with public sewer, 4 units per acre is appropriate for single-family units, 10 units per acre for town-houses and 12 units per acre for multi-family housing.
 6. 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.
 7. The site is consistent with the development patterns recognized in the State of Delaware proposed strategies for State Policies and Spending and is located in a multi-modal investment area under DelDOT's Statewide Long Range Transportation Plan.
 8. The site is consistent with the Comprehensive Plan's Future Land Use Map.
 9. The development will be an age restricted active adult community

Findings
of Fact
(continued)

thereby addressing the needs of a recognized segment of the increasing County population.

10. The nature of the development is consistent with the design, variety, and community interaction goals of the Plan and represents a significant improvement over the existing 133 one-half acre lot subdivision.
 11. The development is consistent with the Plan's goal of passive and active recreation facilities as part of a residential development in that significant social and physical amenities will be provided including a 5000 square foot community center, swimming pool, bocci court, putting green, horseshoe area, tennis court, croquet green, bike paths, and significant passive open space and preserved wetland areas.
- C. The requested change of zone promotes the health, safety, morale, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County based on the evidence and testimony presented by the applicant including the following:

1. It is DelDOT's position that the proposed development would be an improvement over the 133 lot subdivision already approved for the site and that the age restricted community would actually generate less peak hour traffic than the existing approved subdivision for the reasons stated in DelDOT's letters of May 25, 2000, April 6, 2000, and July 20, 1999.

Both purchasers and renters will be subject to Deed restrictions regarding age in compliance with the Fair Housing Act. Based on the above, the impact of the proposed development on the traffic level of service (LOS) will actually be less than that which would exist under the existing approved 133 lot subdivision. Accordingly, when compared to the currently approved 133 lot subdivision, the threshold LOS will not be exceeded and will actually be reduced by the age restricted development.

2. It is DelDOT's position that the street network of the proposed development would be a great improvement over the existing Subdivision Plan. The proposed Plan provides requested support for DelDOT's grid concept subject to final determination by DelDOT and the County as the specifics of a Regional Plan.
3. Adequate fire and police protection are available nearby.
4. The character of the area is appropriate for an age-restricted residential development and the site is located in an area appropriate for a MR-RPC zoning. There are existing residential developments nearby including a single family residential development adjacent on the south and a multi-family development on the north. A par-3 golf course and practice range is also located adjacent to the north and the western boundary is

Findings
of Fact
(continued)

adjacent to existing land zoned commercial. The general area consists of substantial commercial development along Route 1 and numerous residential developments in the Route 1 corridor. The proposed development is consistent with the character of the area and due to the existing pattern of development and the goal of the Comprehensive Plan is suitable for the proposed use.

5. The development is consistent with the historical trend of development in the area and with the intended plan for future development as stated in the Comprehensive Plan.
6. That adequate central water (from Tidewater Utilities, Inc.) and public sewer (from Sussex County) facilities and capacities are available and that there will be no adverse impact on nearby properties.
7. That adequate utility services, schools, medical facilities, and shopping areas are available near the site.
8. That the development will provide a substantial direct economic impact to Sussex County in terms of jobs, payrolls, sewer fees, property taxes, and transfer taxes and will provide a substantial secondary economic impact to area businesses. School taxes will also increase without the addition and costs associated with additional students since the development is age-restricted.
9. That 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.
10. Natural resources will be conserved and there will be no adverse environmental impact in that the site will provide a 50 foot buffer from State wetlands and will use the Federal wetland boundary as a building setback line. 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.
11. That there is a need for housing in the area for year-round residents and second homeowners. In particular, the development, being an age-restricted community, will address a housing need for older residents, whose numbers are projected to increase substantially in the next 20 years.
12. The proposed density of the MR/RPC is approximately the same as that which could actually be developed in a traditional MR subdivision and is generally consistent with or less than existing residential density in the area.

Findings
of Fact
(continued)

13. That the density and design of the development will provide residential housing at appropriate density in a planned development area thus providing protection of agricultural lands elsewhere in the County.
14. That the Sussex County Planning and Zoning Commission held a public hearing on the proposed application on April 13, 2000, and unanimously recommended to the County Council that the application be approved with conditions.
15. That the Office of State Planning Coordination had indicated by letter dated September 23, 1999, that the State had no objection to the proposed rezoning. In response to comments offered in the letter: (1) the site will have central water provided by Tidewater Utilities, Inc.; (2) the development will comply with all applicable Federal, State and County laws regarding storm water management and Federal and State wetlands; (3) the Developer will comply with all requirements of DelDOT as set forth in DelDOT's letters previously referenced.
16. The findings and conclusions 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.

Draft
Ordinance
Relating
to the
Placement
of Mobile
Homes

Mr. Lank, Director of Planning and Zoning, distributed copies of a draft ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ENTITLED "ZONING", TO AMEND PROVISIONS RELATING TO THE PLACEMENT OF MOBILE HOMES". Mr. Phillips requested that this Ordinance be drafted to permit mobile homes on individual lots of 1/2 acre or more in an AR-1 Agricultural Residential District as long as it conforms to all other sections of the Code. Currently, County Ordinance requires 3/4 acre or more. It was the consensus of Council that this draft ordinance be reviewed by legal counsel and discussed by the Planning and Zoning Commission at their Public Workshop scheduled for June 29, 2000. Mr. Phillips requested that copies of the draft ordinance be distributed to the members of the Land Use Advisory Committee. The draft ordinance will be placed on the July 11, 2000, County Council agenda.

Agenda
Item/Draft
Ordinance/
Density
Calculation

Mr. Cole requested that the draft ordinance entitled "AN ORDINANCE TO AMEND ARTICLE XVI OF THE CODE OF SUSSEX COUNTY IN ORDER TO MODIFY THE METHOD FOR CALCULATING THE NUMBER OF PERMITTED DWELLING UNITS IN AN RPC RESIDENTIAL PLANNED COMMUNITY DISTRICT" be placed on the Agenda in July for discussion. Mr. Phillips requested that copies of this draft ordinance also be distributed to the members of the Land Use Advisory Committee.

Request
to
Withdraw

Council considered a request for permission to withdraw Conditional Use No. 1337, an application filed on behalf of Preston Schell. The request to withdraw was made due to the amount of time it would take to have a traffic impact study

Request to
Withdraw
(continued)

performed. Council was advised that the request to withdraw was not received during the time period required which, is at least 2 working days prior to the scheduled public hearing. For this reason, it was necessary to obtain Council's approval to permit the application to be withdrawn.

M 324 00
Permit
Withdraw
of
C/U No.
1337

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to permit the withdraw of Conditional Use No. 1337, an application filed on behalf of Preston Schell.

Motion Adopted: 4 Yea, 1 Absent.

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

(Mr. Dukes was not in the Council Chambers when the vote was taken on this request.)

M 325 00
Approve
Change
Order/
Holland
Glade

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based on the recommendation of the Consulting Engineers, George, Miles and Buhr, LLP and the County Engineering Department, that the Sussex County Council approves Change Order No. 3 for Contract WRIII-4, Holland Glade, in the amount of \$76,218.50, which adds a 1 ½ inch overlay to CR 271 that will be funded by the Delaware Department of Transportation.

Motion Adopted: 5 Yea.

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

M 326 00
Approve
Change
Orders/
Regional
Pump
Station
at
Ocean
View

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based on the recommendation of the Consulting Engineers, Whitman, Requardt and Associates, LLP and the County Engineering Department, that the Sussex County Council approves Change Order Nos. 1, 2 and 3 for Contract 99-08 "Regional Pump Station at Ocean View" that provide a net credit of \$17,261.43 and reduces the contract amount to \$2,191,848.57.

Motion Adopted: 5 Yea.

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

M 327 00
Approve
Change
Order

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that a change order be approved for Sussex County Project No. 96-16, Indian River Acres Suburban Community Improvements, to balance quantities, which provides a

M 327 00 credit of \$2,338.22 and decreases the contract price from \$91,611.00 to
(continued) \$89,272.78, and a time extension of three days due to a request for extra work
from the homeowners.

Motion Adopted: 5 Yea.

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

M 328 00 A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the
Grant recommendation of the Sussex County Engineering Department for Sussex
Beneficial County Project No. 81-04, that the Sussex County Council grant Beneficial
Acceptance/ Acceptance for the wastewater facilities constructed in Sussex West
Sussex Manufactured Home Park, located in the West Rehoboth Sanitary Sewer District.

West
Manu- Motion Adopted: 5 Yea.

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

Proposed Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO
Ordinance GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
RESIDENTIAL DISTRICT FOR AN AMUSEMENT (PAINTBALL GAMES)
TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING
1.03 ACRES, MORE OR LESS" (Conditional Use No. 1350) filed on behalf of
Delmarva Paintball, c/o Daniel Wallace. The Proposed Ordinance will be
advertised for Public Hearing.

Proposed Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO
Ordinance GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
RESIDENTIAL DISTRICT FOR A CONTRACTOR'S OFFICE, PARKING,
AND STORAGE OF EQUIPMENT AND MATERIALS TO BE LOCATED
ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN
RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.169 ACRES,
MORE OR LESS" (Conditional Use No. 1351) filed on behalf of David M.
Shepherd. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO
Ordinance GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL
COMMERCIAL DISTRICT FOR A SALES CART PROGRAM FOR THE
SALE OF SOFT AND HARD GOODS OFF OF CARTS TO BE LOCATED
ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND
REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 34.41 ACRES,
MORE OR LESS" (Conditional Use No. 1352) filed on behalf of Rehoboth
Outlets Center 3. 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A SALES CART PROGRAM FOR THE SALE OF SOFT AND HARD GOODS OFF OF CARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 15.14 ACRES, MORE OR LESS" (Conditional Use No. 1353) filed on behalf of Rehoboth Outlets Center 2. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOFTBALL COMPLEX, CABINS, PARENT LODGING, ADMINISTRATION BUILDINGS, BATH HOUSES, POOL AND DINING HALL, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 131.94 ACRES, MORE OR LESS" (Conditional Use No. 1354) filed on behalf of Softball World, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CABINET SHOP AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS" (Conditional Use No. 1355) filed on behalf of Barry Morin. The Proposed Ordinance will be advertised for Public Hearing.

DNMC Resolution Mr. Cole discussed a Resolution adopted by the Delaware Nutrient Management Commission (DNMC) regarding potential nutrient contributions to water quality impairments within the watersheds of Delaware. In the Resolution, the DNMC expresses it's support of legislation requiring assessment of nutrient contributions from commercial and residential developments having the potential to substantially impact Delaware ground and surface waters. Mr. Cole requested a copy of the legislation referred to in the Resolution.

M 329 00 Councilmanic Grant A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$200.00, \$100.00 each from Mr. Dukes' and Mr. Phillips' Councilmanic Accounts, to Laurel High School for the purchase of a championship sign to be placed at the high school baseball field in Laurel.

Motion Adopted: 5 Yea.

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

M 330 00 Councilmanic Grant (Withdrawn) A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$250.00, \$50.00 from each Councilmanic Account, to the Sussex Stars for travel expenses.

Mr. Dukes withdrew his second to the Motion and the Motion failed.

M 331 00 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$250.00, \$50.00 from each Councilmanic Account, to the Sussex Stars for travel expenses.

Motion Adopted: 5 Yea.

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

M 332 00 Recess At 12:21 p.m., a Motion was made by Mr. Cole, seconded by Mr. Jones, to recess and go into Executive Session. Motion Adopted by Voice Vote.

Executive Session/ Recess Regular Meeting An Executive Session of the Sussex County Council was held Tuesday, June 27, 2000, at 12:25 p.m., in the Caucus Room of the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, for the purpose of discussing pending litigation. The Executive Session concluded at 12:45 p.m. and the regular meeting was recessed until 1:30 p.m.

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

Public Hearing (C/U No. 1334) 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 STORAGE BUILDING FOR AN AUCTION COMPANY (NO RETAIL) AND A STORAGE BUILDING FOR A LANDSCAPING BUSINESS (NO RETAIL) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS" (Conditional Use No. 1334) filed on behalf of William D. Emmert and Ted Nowakowski, Jr. The Planning and Zoning Commission held a Public Hearing on this application on June 8, 2000 at which time they recommended approval with conditions. There were no public comments and the Public Hearing was closed.

M 333 00 Adopt Ordinance No. 1383 (C/U No. 1334) A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1383 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE BUILDING FOR AN AUCTION COMPANY (NO RETAIL) AND A STORAGE BUILDING FOR A LANDSCAPING BUSINESS (NO RETAIL) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER

M 333 00
(continued)

HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS” (Conditional Use No. 1334) filed on behalf of William D. Emmert and Ted Nowakowski, Jr., with the following conditions:

1. The only buildings to be permitted with this Conditional Use are the buildings submitted on the site plan.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Abstention.

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

Findings
of Fact

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

1. The applicants established by substantial evidence that the proposed use will have no adverse impact of any sort on the character of the neighborhood, property values therein, traffic, or the local environment, and is consistent with the Comprehensive Land Use Plan.
2. The applicants established that their growing businesses require additional storage and that storage space in any substantial size is not available in the coastal Lewes – Rehoboth area.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1335)

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 PROFESSIONAL PHOTOGRAPHY STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 33,100 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1335) filed on behalf of Stephen C. Theis. The Planning and Zoning Commission held a Public Hearing on this application on June 8, 2000; on June 22, 2000, the Commission recommended approval with conditions.

Public comments were heard. Comments focused on the fact that neighbors are not in opposition to the current business; however, they do object to Mr. Theis moving off-site and keeping the house as a business location.

The Waiver of restrictive covenants between Steve Theis and his neighbors, dated August 28, 1979, was discussed. Questions were raised as to whether Mr. Theis is required to maintain part of the home as his residence or whether he

Public
Hearing
(continued)

can convert the entire home to a photography studio.

Mr. Bayard requested that action on this application be deferred so that he can review the Waiver of restrictive covenants.

The Public Hearing was closed and action was deferred.

Public
Hearing
(C/U
No. 1336)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN ELEVATED WATER STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.79 ACRES, MORE OR LESS" (Conditional Use No. 1336) filed on behalf of Tidewater Utilities, Inc. The Planning and Zoning Commission held a Public Hearing on this application on June 8, 2000; on June 22, 2000, the Commission recommended approval with conditions.

Public comments were heard in opposition to the application. Comments focused on the following: signage on the water tower; depreciation of property values; that the tower should be located in the area that it is proposed to serve; that the integrity of the neighborhood will be impacted; that the water quality may be affected; that the height of the tower is too high; and that the water tower will be a skyline intrusion. Council members were encouraged to review the Report submitted by Killam Associates, Consulting Engineers for Tidewater Utilities, Inc., regarding the Rehoboth/Lewes District Water System Master Plan, dated October 1999.

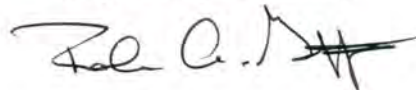
There were no public comments in support of the application.

The Public Hearing record was closed. Council deferred action for a period of not less than 30 days to review the Killam Associates Report and to solicit comments regarding this application from the Public Service Commission.

M 334 00
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 4:05 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council