

SUSSEX COUNTY COUNCIL, GEORGETOWN, DELAWARE – JULY 10, 2001

Call to
Order

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

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

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

M 368 01
Approve
Agenda

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

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 369 01
Approve
Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the minutes of the June 19, 2001, and June 26, 2001, meetings, as distributed.

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-
spondence

Mr. Bayard read the following correspondence:

MICHAEL R. GORDON, DELEGATE, THE MARYLAND HOUSE OF DELEGATES, ANNAPOLIS, MARYLAND.

RE: Copy of a letter to Glenn Luedtke, Director, Sussex County EMS, thanking and commending members of the EMS department for their professionalism and concern in response to an accident scene on Monday, June 18, 2001, involving Delegate Gordon and his wife.

Councilman

Mr. Cole joined the meeting.

Corre-
spondence
(continued)

BRUCE A. RICHARDS, Ph.D., EXECUTIVE DIRECTOR, CENTER FOR THE INLAND BAYS, LEWES, DELAWARE.

RE: Thanking Mr. Dukes for his participation in the public policy forum at their recent Board of Directors meeting.

ROBERT J. VILLAHURA, STATE REPRESENTATIVE, 10TH DISTRICT, HOUSE OF REPRESENTATIVES, LEGISLATIVE HALL, DOVER, DELAWARE.

RE: Thanking Mr. Dukes for his participation in the working group formed for the purpose of attempting to reach solutions on the issues arising out of House Bill No. 39.

MILFORD MEMORIAL HOSPITAL AUXILIARY, MILFORD, DELAWARE.

RE: Thanking Mr. Jones and Mr. Rogers for their councilmanic grant for the Annual Hospital Fair.

Proposed
Land
Acquisition
Program

Mr. Stickels submitted to Council a "Proposed Land Acquisition Program" proposal for discussion purposes. Because of developments in the recent General Assembly session, Mr. Stickels stated that the County should look very seriously at developing a Land Acquisition Program before either (1) the State mandates that the County develop a program, or (2) the State decides to take a source of revenue from the County to subsidize its own program. Land purchases would not be limited to agricultural activities, but could be used for buffering of County facilities, to expand areas currently owned by the State of Delaware, or to leverage with State funds to do cooperative purchasing. Land acquisition could also eventually lead to a parks and recreation program for the County. The proposal included possible funding mechanisms as follows:

- A general obligation \$6 million bond annual cost would be approximately \$436,000. The cost of this bond could be paid from the realty transfer tax.
- The FY 2002 Capital Improvement Fund currently is funded at \$2.4 million. The County Council could permit the use of \$1 million from this fund for the first year of a Land Acquisition Program. Future budgets could allow for budgeting of funding to expand this program or to pay the debt service if a bond issue is authorized.
- The County Council could set a tax increase of 2.3 cents per \$100 of assessed value to pay for a bond issue.
- The County Council could establish a program dedicating a portion of the retained earnings from previous years to be dedicated for land acquisition. For example, FY 2000 retained earnings for the year were \$3.8 million. The County Council could pledge ten percent to be put into a Land Acquisition Program. This funding would be leveraged and built up in an account.

Proposed
Land
Acquisition
Program
(continued)

Mr. Stickels also suggested that Council appoint one member from each councilmanic district to serve on an advisory committee with the County Administrator, County Finance Director, and a County Attorney. The committee would be responsible for reviewing acquisitions and making recommendations to the Council. The County Council would have the final decision on land that would be authorized for purchase.

It was stressed that it is not the intent of this program to actively pursue the acquisition of land, but simply to have the means available to obtain property for which the County would have a specific use.

M 370 01
Draft
Ordinance

A Motion was made by Mr. Cole to instruct the County Administrator and legal staff to draft an ordinance establishing a Land Acquisition Program for Sussex County. Motion died for lack of a second.

Land
Acquisition

It was the consensus of Council that this item be placed on the County Council Agenda on July 24, 2001, for additional discussion and public input.

Legislative
Update

Mr. Stickels presented the following legislative update:

House Bill No. 39 – AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE INLAND BAYS WATERSHED.

This particular legislation went through many revisions. House Substitute No. 1 for House Bill No. 39 eliminated the nine areas of impact required to be studied and established a Task Force to determine which impacts would have to be looked at on an individual basis. The end result was passage of House Resolution No. 31 – RECOGNIZING THE DELAWARE INLAND BAYS AS AN ENVIRONMENTALLY SENSITIVE AREA AND CREATING A TASK FORCE TO EVALUATE STATE AND COUNTY LAND USE REVIEW PROCESSES AND DEVELOP CRITERIA TO EVALUATE DEVELOPMENTAL IMPACT ON THIS ENVIRONMENTALLY SENSITIVE AREA.

Copies of the “General Extent Description of the ‘Environmentally Sensitive Developing Area’ of Eastern Sussex County,” which is a description of the study area and sets the boundaries, were distributed for Council’s information.

As provided in House Resolution No. 31, Council is required to designate a representative for this study and to serve on the Task Force. Mr. Phillips volunteered to serve, with Mr. Dukes as an alternate.

House Bill No. 255 – AN ACT TO AMEND TITLE 9, TITLE 22, TITLE 29 OF THE DELAWARE CODE RELATING TO LAND USE, COMPREHENSIVE PLANS, AND ANNEXATIONS.

Legislative
Update
(continued)

This bill received several amendments. It requires the County to have its zoning maps and land use maps equal. One major amendment that was added stated that if there is a disagreement over the County's Comprehensive Plan, an advisory panel will make a recommendation to the Governor and the Governor has 20 days to certify the Plan or to recommend revisions. The County has the right to accept or reject the revisions and has the final decision in adopting the Plan. If the County is not in agreement with the State, the County may end up with a Land Use Plan that does not meet State certification.

Senate Bill No. 105 – AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO PLANNING COORDINATION.

This legislation replaces the existing Advisory Panel on Intergovernmental Planning and Coordination with a Governor's advisory council, to which Mr. Stickels has been appointed a member.

Senate Bill No. 119 – AN ACT TO AMEND CHAPTER 60, TITLE 7, OF THE DELAWARE CODE RELATING TO THE FORMULATION AND IMPLEMENTATION OF A SOURCE WATER PROTECTION PROGRAM.

This bill requires county governments, as part of the updates to the 2007 Comprehensive Land Use Plans, to adopt maps delineating source water assessment, wellhead protection, and excellent groundwater recharge areas, and regulations governing the use of land within those critical areas designed to protect drinking water supplies.

House Bill No. 192 – AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO THE REALTY TRANSFER TAX

This bill designates a larger portion of the State's realty transfer tax for open space.

House Bill No. 235 – AN ACT TO AMEND CHAPTER 91, TITLE 29 OF THE DELAWARE CODE RELATING TO DEVELOPMENT OF IMPACT FEES.

This legislation establishes intergovernmental coordination in developing proposals on impact fees and gives the counties the ability to charge impact fees on fire houses, public safety, libraries, water, and sewer.

House Bill No. 283 – AN ACT TO AMEND CHAPTERS 100 AND 101 OF TITLE 16 OF THE DELAWARE CODE TO PROVIDE FOR STATE PLANS FOR THE IMPLEMENTATION OF WIRELESS E-911 SERVICE AND AN INTEGRATED WIRELINE AND WIRELESS E-911 SYSTEM AND FOR THE FUNDING THEREOF.

This bill establishes a 60-cent fee on business lines, as well as a 60-cent fee on

Legislative Update (continued)

cellular phones and residential lines, which in the past had been collected by the County at a rate of 50 cents, with the additional ten cents going to the State. An amendment to the bill allows the County to use these funds toward capital expenditures at the Sussex County Emergency Operations Center.

House Bill No. 293 – AN ACT TO INCORPORATE THE TOWN OF GUMBORO.

This legislation incorporates Gumboro as a town.

House Bill No. 352 – AN ACT TO AMEND THE CHARTER OF THE TOWN OF GUMBORO.

This bill provides zoning for the Town of Gumboro through Sussex County until such time as a zoning ordinance is enacted by the Town of Gumboro. This bill passed the House, but did not pass the Senate. There are some legal questions as to whether the Governor will sign the bill incorporating Gumboro without the town having its own zoning.

Mr. Stickels advised that there were four other bills of interest to Sussex County which did not receive passage, including Senate Bill No. 228 relating to transfer of development rights (TDR) provisions. The TDR bill passed the House, but never came out of committee in the Senate. House Bill No. 292 creating seven councilmanic districts did not pass either chamber. Legislation that passed the House but did not make it to the Senate included a bill that would make the Recorder of Deeds a position appointed by the County Council instead of an elected position. Finally, a bill to change the Sheriff from an elected position to a position appointed by the County Council came out of committee, but did not get to the floor for a vote. Revisions may be forthcoming which would transfer the Sheriff position to the State.

Administrator's Report

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

1. I am pleased to inform the Council that I have been notified by the Delaware State Housing Authority (DSHA) that the Sussex County Community Development and Housing Division has been awarded \$1,198,000 for the following activities:

Administration	\$ 115,000
Blades – Water Treatment System (371)	140,000
Bridgeville – Housing Rehabilitation (2)	36,000
Coverdale Crossroads – Rehabilitation (2)	36,000
Ellendale – Sewer Pumps (372)	282,000
Frankford – Sewer Hookups (5)	20,000
Georgetown – Sidewalk (38)	95,000
Laurel – Housing Rehabilitation (2)	36,000

Adminis-
trator's
Report
(continued)

Lucas Development – Rehabilitation (2)	\$ 32,000
Ocean View – Sewer Hookups (15)	45,000
Rural Lincoln/Cedar Creek – Rehabilitation (2)	28,000
Rural Middleford – Rehabilitation (2)	30,000
Rural Millsboro – Rehabilitation (2)	30,000
Scattered Site Coastal Rehabilitation (20)	120,000
Seaford – Rehabilitation (2)	36,000
Demolition (1)	12,000
Selbyville – Water/Sewer Hookups (15)	45,000
West Rehoboth – Water Line (21)	40,000
Water Hookups (10)	<u>20,000</u>
TOTAL	<u>\$1,198,000</u>

The recommendations for funding were made by an independent review panel, whose members evaluated each application's potential benefit to low-income persons, the management capacity of the applicant, and the cost-benefit of the proposed activities, including severity of need, impact, cost reasonableness, and feasibility.

The recommendations for funding were also made in response to the limited State CDBG allocation and, therefore, not all activities requested could be funded. Consequently, housing rehabilitation activities requested for Bethel, Dagsboro, Ellendale, Milford, and Ocean View were not recommended for funding. Other rehabilitation target areas and scattered site rehabilitations were funded in full or at a level below what was requested. Scattered site housing rehabilitation is due to be mainly funded with HOME funds. The review panel did not recommend the Ellendale, Georgetown, and Greenwood demolitions or the Bethel code enforcement, due to their reaction to the need in the areas and the impact compared to other projects recommended for funding.

The review panel did not recommend the Georgetown Savannah Road and North King Street sidewalks projects, the Greenwood water line project, the Millsboro sewer line project, the Milton sidewalks project, or the Selbyville drainage project. The CDBG costs per dwelling unit were very high for these projects and should be reduced to improve scoring next year. The Blades Town Hall handicapped accessibility project is not eligible for funding under the State of Delaware CDBG program guidelines.

I have also been notified by the Delaware State Housing Authority that Sussex County has been awarded \$340,000 under DSHA's HOME Program. The \$340,000 will be used for housing rehabilitation programs for scattered sites throughout the unincorporated areas of Sussex County. DSHA is using HOME Program funds to supplement Sussex County's CDBG allocation for the first time.

Adminis-
trator's
Report
(continued)

I would like to compliment William Lecates, Director of the Community Development and Housing Division, and his staff for their fine application in helping secure over \$1.5 million. Their expertise and dedication have been beneficial in improving the housing standards in Sussex County.

2. Public Workshops

The Delaware Department of Transportation will be conducting two Public Workshops in Sussex County. The first will be held on Wednesday, July 11, 2001, from 4:00 to 8:00 p.m. to present facts and solicit comments regarding the widening of SR1 from SR24 to Five Points. The meeting will be held at The Plantations Community Clubhouse, 1600 Pennsylvania Avenue, Lewes, Delaware. The public is invited to attend any time between 4:00 and 8:00 p.m.

The project involves the widening of southbound SR1 to include a third travel lane and shoulder from Five Points to SR24. This section of SR1 currently has constrained capacity and the addition of a third travel lane and a widened shoulder could assist in the multi-modal usage. The increased capacity will provide flexibility in coordinating traffic signals to improve traffic flow on SR1. This project also adds a sidewalk and a "green area" that is consistent with the Charles B. Mills Boulevard concept where feasible.

The second Public Workshop to be held by DelDOT will be on Wednesday, July 18, 2001, to present facts and solicit public comments regarding proposed construction of Bridge 3-350 near Trap Pond State Park. The meeting will be held at the Trap Pond State Park Nature Center, Laurel, Delaware. The public is invited to attend any time between 4:00 and 7:00 p.m.

The proposed construction would include the replacement of an existing timber bridge with a pre-stressed concrete beam bridge. The road would be widened to 28 feet on the bridge and adjacent approaches. A new timber guardrail would replace the existing wire rope guardrail. The spillway would be removed and a new spillway with a wash gate would be constructed.

Public
Hearing/
Appeal of
Subdivision
No. 2001-2,
Sussex
Ventures,
Inc.

A Public Hearing was held on the appeal of Subdivision Application No. 2001-2, Sussex Ventures, Inc. The application is to consider the subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, by dividing 82.61 acres into 71 lots, located south of Road 297, 2,930 feet west of Route 39. On April 5, 2001, the Sussex County Planning and Zoning Commission voted to deny the subdivision application, citing concerns about the preservation and conservation of farmland, length of the interior street, and the fact that there is only one entrance into the proposed subdivision.

Mr. Bayard explained that this is an appeal of a decision by the Planning and Zoning Commission to deny preliminary subdivision approval for a parcel of land near

Public
Hearing/
Appeal of
Subdivision
No. 2001-2,
Sussex
Ventures,
Inc.
(continued)

Mount Joy. Council acts as a court, examines the record made before the Planning and Zoning Commission, and determines from that record whether there is sufficient reason, evidence, or other information in the record to support the decision made by the Commission. Council may uphold the decision of the Commission, overturn the rejection of the subdivision approval, or remand the matter back to the Commission for the taking of further evidence or to request that the Commission establish with more articulate reasons explaining why the Commission took the action it did. No new evidence or testimony will be considered, as the public hearing record is closed.

Mr. Bayard noted that Council has received 14 letters with respect to the appeal, all of which are in opposition to the subdivision (and in support of the decision of the Planning and Zoning Commission), which will be incorporated into the record. Copies will be provided to the attorneys, both for the appellant and the opposition.

Mr. Abbott, Assistant Director of Planning and Zoning, proceeded to present the record of the Planning and Zoning Commission to Council.

Arguments were heard from Mr. Sergovic, attorney for the appellant, and Mr. Weidman, attorney representing the Mount Joy Citizens for Responsible Growth.

It was suggested by Mr. Bayard that Messrs. Sergovic and Weidman present Council with memoranda and any other documentation in support of their respective positions within 15 days of July 10, 2001, after which time the record will be closed. Once Council completes its review of the record, the matter will be placed on the agenda for a vote.

Auto
Insurance
Policy

Mr. Baker discussed the auto insurance policy for July 1, 2001, through June 30, 2002. The County's insurance policies are re-bid every three years for a three-year term, with annual renewals. Some changes in premiums reflecting coverage increases and the insurance market are normal. The County's insurance consultant, Insurance Buyers' Council, Inc., worked on obtaining the best possible terms for renewals for the current year, and all are acceptable except for the auto policy. The auto insurer, National Casualty, proposed a \$34,000 increase due to rates alone, in addition to a change in coverage that would exclude volunteer firefighters driving County paramedic vehicles. CNA Insurance Company agreed to provide auto coverage at a cost of \$16,000 less, which included the liability coverage for firefighters.

The last business day to bind coverage was June 29, 2001. There was not sufficient time to re-bid the auto policy, as coverage was needed effective July 1, 2001, and the previous insurer would not cover liability claims for volunteer firefighters. Therefore, Mr. Baker requested Council approval to change the auto policy to CNA Insurance Company based on the emergency procurement provision of State bid laws, since there was insufficient time to re-bid the auto policy, coverage was needed

Auto Policy
(continued)

effective July 1, 2001, and the previous auto insurer would not cover liability for claims by volunteer firefighters against the County.

M 371 01
Authorize
Emergency
Procurement
of Auto
Insurance/
July 1, 2001
through
June 30, 2002

A Motion was made by Mr. Rogers, seconded by Mr. Jones, that the Sussex County Council authorizes the emergency procurement of auto insurance for the period July 1, 2001, through June 30, 2002, from CNA Insurance Company.

Motion Adopted: 5 Yea.

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

Bank
Resolutions

Mr. Baker presented to Council three new bank account resolutions pertinent to Community Development Block Grant and West Rehoboth Pinetown Sewer Extension Project funding.

M 372 01
Adopt
Resolution
R 018 01

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 018 01 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE NATIONAL BANK BEARING THE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL."

Motion Adopted: 3 Yea, 1 Abstained, 1 Absent.

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

M 373 01
Adopt
Resolution
R 019 01

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 019 01 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL."

Motion Adopted: 4 Yea, 1 Absent.

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

M 374 01
Adopt
Resolution
R 020 01

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 020 01 entitled "CASH MANAGEMENT ACCOUNT RESOLUTION."

Motion Adopted: 4 Yea, 1 Absent.

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

Industrial
Revenue
Bond
Committee
Report

Mr. Baker reported that the Industrial Revenue Bond Committee held a Public Hearing on this date, July 10, 2001, regarding an application by PATS, Inc. The Industrial Revenue Bond Committee passed a Resolution approving the project and determined the project to be eligible for Industrial Revenue Bond financing in the amount of \$4,500,000. The Committee is recommending that the County Council approve their findings and approve the project and bond issuance. The application is for the financing of a project consisting of the acquisition, construction, and equipping of an approximately 50,000 square foot building located at 6 Nanticoke Avenue in Georgetown, Sussex County, Delaware, in land, interests in land, buildings, structures, machinery, equipment, or other real or personal property located on such site to be utilized by PATS, Inc., in its business of manufacturing and installing auxiliary fuel tanks and systems for business aircraft and activities related thereto.

This application was previously approved by Council on April 10, 2001, but since that time a complaint has been filed regarding the notice and minutes of the April 10, 2001, Committee meeting. Therefore, a second request for Council approval is necessary. Mr. Baker introduced Mr. Ken Stillwell, Chief Financial Officer for PATS, Inc., and Mr. Gordon Knox, attorney representing Allfirst Bank (who will provide the letter of credit and serve as placement agent). Mr. Stillwell updated Council on the project and noted that there are no major changes in the finances for the project since the last consideration.

M 375 01
Adopt
Resolution
R 021 01

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 021 01 entitled "A PROJECT RESOLUTION AUTHORIZING UP TO \$4,500,000 INDUSTRIAL REVENUE BONDS (PATS, INC. PROJECT) SERIES 2001," as recommended by the Sussex County Industrial Revenue Bond Committee, based on the findings that the project is eligible for this financial assistance, the project will tend to maintain and provide gainful employment opportunities and expand employment within the County, issuance of the bonds will enable the borrower to obtain more efficient and cost-effective financing, the bonds will be limited obligations of the County, and the County does not pledge the credit or taxing power thereof, but the bonds shall be payable solely from revenues from PATS, Inc.

Motion Adopted: 5 Yea.

M 375 01
(continued)

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

Sea Country
Estates
Sanitary
Sewer
District

Mr. Archut, Assistant County Engineer, discussed setting a referendum date on the question of establishing the Proposed Sea Country Estates Sanitary Sewer District and distributed an information sheet on the revised user cost estimates for the district, since the original calculations were based on pre-Ellendale bid numbers which came in above what had previously been estimated.

M 376 01
Establish
Referendum
Date for
Sea Country
Estates
Sanitary
Sewer
District

A Motion was made by Mr. Jones, seconded by Mr. Rogers, that the referendum on the question of establishing the Sea Country Estates Sanitary Sewer District shall be held on Saturday, August 25, 2001, between the hours of 9:00 a.m. and 12:00 p.m. at the Sound United Methodist Church Community Building, Route 54, Fenwick Island, Delaware.

Motion Adopted: 5 Yea.

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

M 377 01
Grant
Beneficial
Acceptance/
Southampton-
Phase III

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 226, the Sussex County Council grant Beneficial Acceptance for the wastewater facilities constructed in Southampton-Phase III, located in the Bethany Beach Sanitary Sewer District.

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

Intrac
System
Failure

Ms. Sheridan, Director of Operations, County Engineering Department, advised Council that on June 22, 2001, the Intrac system which automatically alerts sewer and water district personnel to any potential problems at the pumping stations and facilities failed and left 88 stations throughout ten districts unmonitored. Crews were dispatched to physically monitor the stations affected. Replacement of the Intrac system with the new SCADA system has been ongoing since 1997. Ms. Sheridan stated that Kent/Sussex Communications has been very beneficial in locating a system that will allow manual interrogation of the stations and suggested that the County purchase the materials and build the remote terminal units necessary to give basic alarms for these 88 stations. The cost for materials through United Electric is \$39,772.14, and the work can be done in-house. Some of the stations will also need

Intrac
System
Failure
(continued)

radios, which can be purchased from Caldabaugh Communications at a cost of \$6,500.00, bringing the total cost to \$46,272.14. Due to the emergency nature of the situation, there is no time to prepare a public bid. Ms. Sheridan estimated that it will be a month or so before everything is back on track. The stations are presently being checked manually.

M 378 01
Except
Competitive
Bid Contract
and Authorize
Purchase
of Materials
to Construct
Alarm
Systems
for Sewer
Districts

A Motion was made by Mr. Jones, seconded by Mr. Rogers, that based upon the declaration of the County Administrator that extraordinary conditions exist which require immediate action to protect health and property, the Engineering Department be excepted from the required use of a competitively bid contract and is hereby authorized to purchase materials from United Electric Company of Wilmington, Delaware, to construct alarm communication systems for 88 stations located in ten sewer districts, as allowed by Title 29, § 6907, paragraph (a), of the Delaware Code.

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

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 BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 45.78 ACRES, MORE OR LESS" (Conditional Use No. 1420) filed on behalf of Pusey Rentals, LLC. The Proposed Ordinance will be advertised for Public Hearing.

Revenue
Sharing

Mr. Stickels reported that Mr. Phillips received a check in the amount of \$15,000 on this date, July 10, 2001, to be delivered to the Town of Delmar as part of the County's Revenue Sharing Program.

M 379 01
Recess

At 12:31 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Rogers, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Dukes called Council back into session at 1:38 p.m.

Public
Hearing
(C/Z
No. 1435)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.09 ACRES, MORE OR LESS" (Change of Zone No. 1435) filed on behalf of Great South Beach Improvement Co.

Public
Hearing/
C/Z
No. 1435
(continued)

The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2001, at which time they recommended approval, since it is surrounded by a MR Medium Density Residential District and single family residential development, and since the application is a continuation of a prior plan of development by the same developer. The record of the Public Hearing held by the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Ms. Balliet, attorney; Mr. Schollenberger, Vice President and Manager of Great South Beach Improvement Co.; and Mr. Walker of U.R.S. (a Wilmington engineering and consulting firm) were in attendance on behalf of the application. Great South Beach desires a MR zoning classification to develop and market 42 lots on the site, which currently permits only 25 lots under the present AR-1 zoning. It was noted that this is the final phase of development of the Rehoboth Beach Yacht and Country Club.

Clarification was requested as to whether or not there would be another entrance off of Road 273 to facilitate this application. There were no other public comments.

The Public Hearing was closed.

M 380 01
Adopt
Ordinance
No. 1475
(C/Z
No. 1435)

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1475 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.09 ACRES, MORE OR LESS" (Change of Zone No. 1435) filed on behalf of Great South Beach Improvement Co.

Motion Adopted: 5 Yea.

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

Findings
of Fact

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

1. The applicant established by substantial evidence that the change of zone is in accord with the Comprehensive Land Use Plan, is in a Development District, and marks the final phase of a residential development begun more than 25 years ago. The proposed development is consistent with the type and density of earlier phases of this development. Consequently, there will be no adverse impact on property values or the character of the neighborhood. Further, with the availability of central water and sewer utilities, there will be no adverse

Findings
of Fact
(continued)

environmental impact of any sort. Finally, with the conditions imposed by the Delaware Department of Transportation upon entrance design, there will be no adverse traffic impact.

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

Councilman

Mr. Rogers was not present for the remainder of the meeting.

Public
Hearing
(C/Z
No. 1436
and C/U
No. 1407)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 30.6 ACRES, MORE OR LESS" (Change of Zone No. 1436) filed on behalf of Marsh Harbor, L.L.C., and Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (180 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20.3 ACRES, MORE OR LESS" (Conditional Use No. 1407) filed on behalf of Marsh Harbor, L.L.C.

The Planning and Zoning Commission held a combined Public Hearing on these applications on June 14, 2001, at which time they recommended approval of Change of Zone No. 1436, since the site is adjacent to and in close proximity to other MR Medium Density Residential Districts and single family residential developments. Action on Conditional Use No. 1407 was deferred at that time to allow the Commission to review the documentation, letters, and petitions submitted.

On June 28, 2001, the Commission discussed the application for Conditional Use No. 1407 under Old Business, at which time they recommended that the application be denied, since this site is not appropriate for multi-family use due to the single family residential character of the area along Country Club Road, since the site would be more appropriate for single family homes, and since the density proposed would conflict with the single family residential densities for the area along Country Club Road.

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

Mr. Fuqua, attorney; Ms. Marsh, owner of the property; Mr. Robino, Principal with Marsh Harbor, L.L.C.; and Mr. Harris of Environmental Consultants International were in attendance on behalf of the application. Mr. Fuqua advised that since the time of the Planning Commission hearing, there has been a revision to the proposed

Public
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(continued)

project, in that 144 units are being proposed (72 duplexes and 72 multi-family units), rather than the 180 units requested in the original application, with a height limitation of 32 feet.

Proposed Findings for Change of Zone No. 1436 and Conditional Use No. 1407, as well as Proposed Conditions for Conditional Use No. 1407, submitted by Mr. Fuqua were made a part of the record.

Public comments were heard in support of the application. It was felt that there is a market for duplex and multiple family units in the area and that the property is no longer feasible for a horse farm as has been its use in the past.

Recess

At 3:40 p.m., Mr. Dukes declared a five-minute recess.

Reconvene

Mr. Dukes called Council back into session at 3:52 p.m.

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(continued)

Mr. Bayard stated that letters have been received from John P. Gaul, President, Kings Creek Residential Community Homeowners Association, and Margaret J. Faust of Rehoboth Beach, both of which are in opposition to Conditional Use No. 1407 and will be made a part of the record.

Public comments were heard in opposition to the application. Concerns focused on the additional traffic that will be generated, increased density, the construction of multiple family units that tend to attract renters and more seasonal occupants than single family units, and the fact that Road 273 is the only access to Route 1.

By a show of hands, it was noted that 10 persons were present in support of Conditional Use No. 1407 and 14 persons were present in opposition.

The Public Hearing was closed.

M 381 01
Adopt
Ordinance
No. 1476
(C/Z
No. 1436)

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1476 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 30.6 ACRES, MORE OR LESS" (Change of Zone No. 1436) filed on behalf of Marsh Harbor, L.L.C.

Motion Adopted: 4 Yea, 1 Absent.

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

Findings
of Fact

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

1. The applicant established by substantial evidence that the change of zone is in accord with the Comprehensive Land Use Plan and is in a Development District. The proposed development is consistent with the type and density of development that has taken place along Country Club Road. Consequently, there will be no adverse impact on property values or the character of the neighborhood. Further, with the availability of central water and sewer utilities, there will be no adverse environmental impact of any sort. Finally, with the conditions imposed by the Delaware Department of Transportation upon entrance design, there will be no adverse traffic impact.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 382 01
Defer
Action/
C/U
No. 1407

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action on Conditional Use No. 1407, filed on behalf of Marsh Harbor, L.L.C.

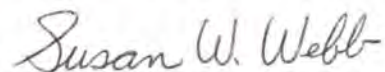
Motion Adopted: 4 Yea, 1 Absent.

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

M 383 01
Adjourn

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

Respectfully submitted,



Susan W. Webb
Acting Clerk of the Council