

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 14, 1998

Call to Order The regular meeting of the Sussex County Council was held Tuesday, July 14, 1998, 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 |
| George J. Collins | Member |
| Lynn J. Rogers | Member |

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

M 308 98 A Motion was made by Mr. Cole, seconded by Mr. Jones, to Amend and Approve Agenda amend the agenda by adding "and Land Acquisition" following "Request for Executive Session - Personnel" and by deleting "Relating to Pension Eligibility" following "Introduction of Proposed Ordinances" and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 309 98 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Approve Minutes approve the minutes of June 30, 1998 and July 1, 1998.

Motion Adopted: 5 Yea.

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

Corre- Mr. Schrader, Assistant County Attorney, read the following spondence correspondence:

LYNN R. BULLOCK, MAYOR, TOWN OF MILLSBORO, MILLSBORO, DELAWARE.
RE: Thank you card to Mr. Stickels, County Administrator, for his help with the 1998 Delmarva Chicken Festival.

JOAN M. BOYCE, EXECUTIVE DIRECTOR, GREATER MILLSBORO CHAMBER OF COMMERCE, MILLSBORO, DELAWARE.
RE: Letter of appreciation to Councilman Collins for his Councilmanic Grant to the 1998 Delmarva Chicken Festival.

JOAN M. BOYCE, EXECUTIVE DIRECTOR, GREATER MILLSBORO CHAMBER OF COMMERCE, MILLSBORO, DELAWARE.
RE: Letter of appreciation for the assistance Sussex County provided for the 1998 Delmarva Chicken Festival.

Corre-
spondence
(con't)

BRENDA ZULLO, DIRECTOR OF OUTREACH AND PROGRAM SERVICES, LAND-SHARKS PROGRAM DIRECTOR, SPECIAL OLYMPICS DELAWARE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Councilmanic Grants.

JACKI MOORE, TOWN CLERK, TOWN OF MILTON, MILTON, DELAWARE.

RE: Notice of Public Hearing on the Petition of Francis Reed Dunlap to consider a request for a variance for the property located at 105 Union Street, Milton, Delaware.

BETTYLOU EVANS, SUSSEX COUNTY VETERANS COUNCIL, LAUREL, DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

PHILIP L. TILGHMAN, PRESIDENT, WICOMICO COUNTY COUNCIL, SALISBURY, MARYLAND.

RE: Letter commenting on the Wicomico County Council's visit to the Sussex County Administrative Offices.

KIM TEPHABOCK, SENIOR PASTOR, DAGSBORO CHURCH OF GOD, DAGSBORO, DELAWARE.

RE: Letter in appreciation of Council's donation for "Celebration of Our Nation".

M 310 98 A Motion was made by Mr. Jones, seconded by Mr. Cole, that an Authorize Executive Session of the Sussex County Council be held on Executive Tuesday, July 21, 1998, at 9:00 a.m., for the purpose of dis- Session cussing personnel and land acquisition.

Motion Adopted: 5 Yea.

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

DTN
Weather
System

Mr. Thomas, Director of Emergency Operations, and Mr. Stickels, County Administrator, discussed a proposal to purchase DTN Weather System units for the City of Seaford and the coastal communities of Slaughter Beach, Lewes, Rehoboth Beach, Dewey Beach, Bethany Beach, South Bethany and Fenwick Island. This proposal was presented to County Council on June 23, 1998. On that date, the County Council requested that the towns be contacted and asked to respond back as to whether they would be interested in a DTN Weather System and further; if the unit is purchased by Sussex County Council, would they be willing to pick up the monthly subscription fees after the first year. Responses received from the towns were favorable towards this proposal. Mr. Rogers requested that the Town of Milton be included in the program. A lengthy discussion ensued on the following issues:

(1) That the offer be made to all towns in Sussex County.

DTN
Weather
System
(con't)

(2) That the County subsidize the program entirely, including subscription fees after the first year, with the program to be reviewed annually; however, under this program, units should only be placed in essential locations in the County, not County-wide.

M 311 98 A Motion was made by Mr. Jones, seconded by Mr. Rogers, that Authorize the Sussex County Council authorizes the purchase of the DTN Purchase Weather System for all local governments in Sussex County of DTN contingent on the local government (1) agreeing to continue the Weather program after the first year and (2) agreeing to pay the monthly System subscription fees after the first year.

Motion Adopted: 4 Yea, 1 Nay.

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

Legis-
lative
Report

Mr. Stickels, County Administrator, provided a legislative report of the 139th General Assembly. Mr. Stickels noted that this legislative session was very successful for Sussex County.

\$100,000 will be received to bring water to the Airport side of the Industrial Park. Sussex County is also eligible for another \$400,000 that would distribute the water and sewer through the airport side of the Industrial Park.

\$600,000 has been allotted to allow for the connection of the Indian River Inlet to the County sewer system. This will not cover the entire cost but will fund the construction and a portion of the impact fee payment.

\$150,000 will be received from DelDOT to help pay for road signs. It is anticipated that Sussex County legislators will fund an additional \$150,000 (\$15,000 from each legislator) from their Suburban Street Funding.

\$2,500,000 will be received for sanitary sewer projects; \$1,500,000 for West Rehoboth and \$1,000,000 for Ellendale.

\$141,000 has been allotted for the Gumboro Civic Center.

Other legislation reviewed by Mr. Stickels included a reduction in personal income tax, additional tax exclusion for retirees, gross receipts tax eliminated for 3,800 businesses, elimination of school tax (did not pass), variances approved by the Sussex County Board of Adjustment (did not pass), and Sheriff Sales in Sussex County (did not pass).

Legisla-
tive
Report
(con't)

Mr. Stickels advised that the most important bill, the Revenue Sharing Bill, passed; this Bill will generate \$1,500,000 for Sussex County. An Ordinance will be drafted amending the Sussex County Fiscal 1999 Budget; this budget amendment will incorporate recommendations as to how the Revenue Sharing funds will be spent. A Public Hearing will be scheduled on the Draft Ordinance following introduction.

Mr. Stickels distributed the following news articles to Council: 1) relating to information on the \$235 Million Bond Bill of which Delaware schools will receive \$61.4 Million and (2) relating to the 21st Century Fund.

Proposed
Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO INCLUDE PRODUCTS RAISED ON OTHER LANDS OWNED BY THE OWNER OF THE PREMISES ON WHICH THE STAND IS LOCATED AS ITEMS PERMITTED TO BE SOLD IN A TEMPORARY REMOVABLE STAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT". The Proposed Ordinance will be advertised for Public Hearing.

Adminis-
trator's
Report

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

1. Swearing-In Ceremony

Peter B. Jones, former Assistant County Attorney, will be sworn in as an Associate Judge to Family Court on Friday, July 24, 1998 at 3:00 p.m. The ceremony will take place in the County Council Chambers. The public is invited to attend this ceremony and a reception will follow.

2. Delaware Health and Social Services Workshop

The County Council will receive a briefing on pfiesteria on July 21, 1998, at 1:30 p.m. in the Council Chambers. The purpose of the briefing is to update members of the County Council and key medical personnel on environmental and human health surveillance reporting and follow-up systems for pfiesteria in Sussex County. The agenda for the briefing is as follows:

- Welcome and Introductions - Barbara DeBastiana, County Health Administrator, Division of Public Health
- What is Pfiesteria? - Sergio Huerta, Laboratory Director, Department of Natural Resources and Environmental Control
- Department of Natural Resources and Environmental Control Surveillance and Reporting Procedures - Sergio Huerta

Adminis-
trator's
Report
(con't)

- Public Health Surveillance - Leroy Hathcock, Epidemiologist, Department of Public Health
- Reporting Potential Human Effects from Pfiesteria - Sandra Norris, Public Health Nurse, Department of Public Health
- Questions and Answers

The public is welcome to attend this workshop.

3. Town of Milton Building Inspections

I have received notification from John F. Bushey, Mayor of the Town of Milton, that they have hired their own building official. Effective July 10, 1998, the Town of Milton resumed their responsibilities for Building Code enforcement. The County's Building Code Department will finish any projects that were started during the interim period.

4. Kerns vs. Dukes, No. 96-7751, U. S. Court of Appeals for the Third Circuit

Mr. Francis J. Schanne, attorney for the class action Plaintiffs, filed an application with the Third Circuit Court of Appeals on July 2, 1998, to have the Phase III of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District construction, its contracts, and its financing enjoined pending the appeal.

This application was denied without comment by the Third Circuit on July 9, 1998.

This was the fourth motion for injunctive relief which has been filed by Mr. Schanne on behalf of the class action Plaintiffs, including one in the U. S. District Court of Appeals in March 1996 and two earlier applications to the Third Circuit in February 1997 and November 1997. To date, none of these motions for an injunction have been granted. Eventually the cost of defending these lawsuits is going to impact the overall rates for West Rehoboth.

Deposit Accounts Mr. Baker, Finance Director, discussed the opening of two new deposit accounts at Delaware National Bank. These new accounts need to be established for the HPG and CDBG programs.

M 312 98 Adopt Resolution No. R 016 98 A Motion was made by Mr. Jones, seconded by Mr. Collins, to Adopt Resolution No. R 016 98 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, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FAC-SIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

M 312 98 Motion Adopted: 4 Yea, 1 Abstention.
(con't)

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

T-Hangar Mr. Calio, Director of Economic Development and Industrial Air-
Lease park, presented for Council's consideration a Proposed Lease
with Earl D. Waller for T-Hangar Unit #2 at the Sussex County
Airport. The term of the lease will be three years; the annual
rent will be \$3,000 for the first two years, subject to change
during the third year in accordance with the Consumer Price
Index.

M 313 98 A Motion was made by Mr. Rogers, seconded by Mr. Jones,
Authorize authorizing the President of the Sussex County Council to
T-Hangar enter into a three year lease with Earl D. Waller for T-Hangar
Lease Unit #2 at the Sussex County Airport, subject to proper in-
surance coverage as approved by the Sussex County Finance
Director.

Motion Adopted: 5 Yea.

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

Purchase Mr. Calio, Director of Economic Development and Industrial
of Airpark, presented for Council's consideration a proposal to
Building purchase a building with six airplane hangars from Ronald Moore,
from T/A Sussex Aviation, Inc. for the purchase price of \$120,000.
Ronald The building is situated on 0.303 acres of leased land with-
Moore in the Sussex County Airport. The building is currently
leased as airplane hangars at rental rates of \$300 per month
for the large hangars and \$175 per month for the smaller
hangars.

M 314 98 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to
Authorize authorize the purchase of a building with six airplane hangar
Purchase units at the Sussex County Airport from Ronald Moore, T/A
of Sussex Aviation, Inc. at a cost of \$120,000.

Building Motion Adopted: 4 Yea, 1 Abstention.
from

Ronald Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;
Moore Mr. Collins, Yea; Mr. Jones, Yea;
Mr. Dukes, Abstained

Bid Results

Mr. Archut, Assistant County Engineer, discussed bid results for the sewer extension of Prince George's Acres in the Dagsboro-Frankford Sanitary Sewer District, as follows:

| <u>General Contractor</u> | <u>Bid Schedule A</u> | <u>Bid Schedule B</u> | <u>Totals A&B</u> |
|--------------------------------------|-----------------------|-----------------------|-----------------------|
| A. P. Croll | \$133,134.00 | \$ 10,750.00 | \$143,884.00 |
| American Paving | \$277,836.91 | \$110,500.00 | \$388,336.91 |
| L. A. Merrell Construction Co., Inc. | \$128,315.70 | \$ 10,000.00 | \$138,315.70 |
| David G. Horsey & Sons, Inc. | \$124,307.79 | \$ 14,500.00 | \$138,807.79 |

Mr. Archut advised that the bids were reviewed by George Miles & Buhr; the bids of American Paving and David G. Horsey & Sons, Inc. were determined to be non-responsive. George, Miles & Buhr has recommended that the bid be awarded to L. A. Merrell Construction Co., Inc.

M 315 98 Award Contract/ Prince George's Acres Extension A Motion was made by Mr. Collins, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department and the County's consultants, George, Miles & Buhr, that a contract be awarded to L. A. Merrell Construction Company, Inc., for bid schedules A and B, in the amount of \$138,315.70, to construct the Prince George's Acres Extension of the Dagsboro-Frankford Sanitary Sewer District, subject to the review and approval of Rural Development.

Motion Adopted: 5 Yea.

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

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 PET CREMATORY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 19.49 ACRES, MORE OR LESS" (Conditional Use No. 1254) filed on behalf of Bethany Beach Kennels, c/o George M. Baldwin. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RECREATIONAL MAZE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.0 ACRES, MORE OR LESS OF A 15.02 ACRE TRACT" (Conditional Use No. 1255) filed on behalf of Pepper Farms, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Collins introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXTENSION TO AN EXISTING SUBSTATION (CONDITIONAL USE NO. 17) FOR STORAGE OF A TRUCK AND REPAIR SUPPLIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 34,800 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1256) filed on behalf of Delaware Electric Cooperative, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ANTIQUE SHOP WITHIN AN EXISTING SHED TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.26 ACRES, MORE OR LESS" (Conditional Use No. 1257) filed on behalf of Howard V. Towle. 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 A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A M MARINE DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 28.64 ACRES, MORE OR LESS" (Change of Zone No. 1346) filed on behalf of DMV Partnership. 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.27 ACRES, MORE OR LESS" (Change of Zone No. 1347) filed on behalf of Integral Marketing Partners, Inc., t/a Rosses Rides. The Proposed Ordinance will be advertised for Public Hearing.

M 316 98 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Collins, to give \$1,000 from Mr. Cole's Councilmanic Account to the Town of Selbyville for the pool project.

Motion Adopted: 5 Yea.

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

M 317 98 Councilmanic Grant A Motion was made by Mr. Collins, seconded by Mr. Jones, to give \$200.00 from Mr. Collins' Councilmanic Account to the Millsboro Public Library for the purchase of large print reading materials.

M 317 98 Motion Adopted: 5 Yea.
(con't)

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

M 318 98 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to
Council- give \$500.00 from Mr. Jones' Councilmanic Account to the
manic Georgetown Little League for the replacement of lights on
Grant the Senior League Field.

Motion Adopted: 5 Yea.

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

M 319 98 A Motion was made by Mr. Collins, seconded by Mr. Jones, to
Council- give \$300.00 (\$100.00 from Mr. Collins' Councilmanic Account
manic and \$50.00 each from Mr. Dukes', Mr. Cole's, Mr. Rogers', and
Grant Mr. Jones' Councilmanic Accounts) to the Sussex County Chapter,
Delaware Safe Kids Coalition, for Sussex County Safe Kids Day.

Motion Adopted: 5 Yea.

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

Signs/ Mr. Cole discussed two issues of concern. The first issue was
Bill- the placement of political signs along County roads. It was
boards noted that State Law regulates the placement of these signs.
The second issue was the setback requirements for billboards;
it is Mr. Cole's opinion that the 25' setback requirement
should be changed to a 40' setback requirement. A workshop
will be scheduled relating to billboard setback requirements.

M 320 98 At 11:45 a.m., a Motion was made by Mr. Jones, seconded by Mr.
Recess Collins, to recess until 1:30 p.m. Motion Adopted by Voice
Vote.

Reconvene Mr. Dukes called Council back into session at 1:45 p.m. Mr.
Jones was not present for the afternoon session.

Public A Public Hearing was held on the Proposed Ordinance entitled
Hearing "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
(C/U AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO
No. 1250) BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33,718 SQUARE
FEET, MORE OR LESS" (Conditional Use No. 1250) filed on behalf
of Anthony and Pauline Ross. Public comments were heard in
favor of the application and the Public Hearing was closed.

M 321 98 A Motion was made by Mr. Collins, seconded by Mr. Rogers, to
Adopt Ordinance No. 1248 entitled "AN ORDINANCE TO GRANT A
Ordinance No. 1248 CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL
(C/U DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN
No. 1250) PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX
COUNTY, CONTAINING 33,718 SQUARE FEET, MORE OR LESS" (Condi-
tional Use No. 1250) filed on behalf of Anthony and Pauline
Ross, with the following conditions:

1. All parking and storage of vehicles shall be to the rear of the building. No parking shall be permitted in the front yard between the building and the right of way of Road 64.
2. No long term storage of vehicles shall be permitted outside (no longer than 2 weeks).
3. Business hours shall be from 8:00 a.m. to 8:00 p.m. Monday through Saturday, with no Sunday hours.
4. No body work or painting shall be permitted.
5. Outside lighting shall be security lighting only.
6. One (1) unlighted two-sided sign, not exceeding 32 square feet per side or facing, may be permitted.
7. All entries to the building shall be to the rear of the building.
8. All business activities shall be conducted behind the front of the building.
9. A landscaping plan shall be submitted with the final site plan.
10. 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. Cole, Yea; Mr. Rogers, Yea;
Mr. Collins, Yea; Mr. Jones, Absent;
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 will occur on a site where the use has existed for numerous years without complaints.

Findings (con't) 2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing (C/U No. 1251) 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 PAVING BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.98 ACRES, MORE OR LESS" (Conditional Use No. 1251) filed on behalf of Dale J. and Mary Gray, t/a Gray's Paving, Inc. Public comments were heard in favor of the application and the Public Hearing was closed.

M 322 98 Adopt Ordinance No. 1249 (C/U No. 1251) A Motion was made by Mr. Collins, seconded by Mr. Rogers, to Adopt Ordinance No. 1249 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PAVING BUSINESS WITH EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.98 ACRES, MORE OR LESS (Conditional Use No. 1251) filed on behalf of Dale J. and Mary Gray, t/a Gray's Paving, Inc., with the following conditions:

1. Stockade fencing installed along the property lines shall include a solid gate to screen the equipment storage area from Route 113.
2. The applicants shall be permitted to store trucks and equipment relating to the paving business to the rear of the site. Mechanical service of the vehicles and equipment may be performed on the site.
3. Paving materials, such as crusher run and recycled asphalt (millings), may be stored on the site behind the stockade fence.
4. Business hours shall be from 7:00 a.m. to 7:00 p.m. with no Sunday hours.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

Motion Adopted: 4 Yea, 1 Absent.

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

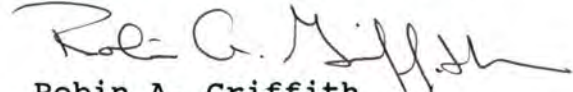
Findings of Fact The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

Findings
(con't)

1. The applicant established by substantial evidence that the proposed use will occur on a site where the use has existed for numerous years without complaints.
2. The applicant established by substantial evidence that the site is located in a mixed residential - commercial area.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 323 98 A Motion was made by Mr. Collins, seconded by Mr. Cole, to
Adjourn adjourn at 2:20 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council