

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 17, 2001

Call to
Order

The regular meeting of the Sussex County Council was held Tuesday, July 17, 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 Phillips	Member
Lynn J. Rogers	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Eugene Bayard	County Attorney

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

M 384 01
Amend &
Approve
Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to amend the Agenda by deleting "Michael Izzo, County Engineer, 1. Milton Public Library Expansion, a. Amendment No. 1 to Design Contract (Weymouth Architects & Planners)" and also by deleting "Introduction of Proposed Zoning Ordinances" and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 385 01
Approve
Minutes

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to approve the minutes of the July 10, 2001 meeting, as distributed.

Motion Adopted: 5 Yea.

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

Corre-
spondence

Mr. Bayard read the following correspondence:

MIKE ELINE, PRESIDENT, LAUREL CHAMBER OF COMMERCE, LAUREL, DELAWARE

RE: Thanking Councilmen Dukes and Phillips for their recent contribution that helped provide funding for their Independence Day Celebration 2001.

MEREDITH SMITH, HEAD COACH, SOUTHERN HIGH SCHOOL, BALTIMORE, MARYLAND

RE: Thanking Council for their support of the "Slam Dunk to the Beach Tournament".

Corre-
spondence
(Con't.)

SAUL LANKSTER, MEMBER AND PAST PRESIDENT OF THE BOARD OF EDUCATION, COMPTON UNIFIED SCHOOL DISTRICT, COMPTON, CALIFORNIA

RE: Congratulating Council on their sponsorship of the "Slam Dunk to the Beach Tournament".

ARTS STABILIZATION FUND CAMPAIGN (ArtCO), WILMINGTON, DELAWARE

RE: Notice that final payment has been received from the New Castle County Government, which brings the Delaware Arts Stabilization Fund Campaign to a close. The campaign raised more than \$21.3 million, which will be invested with the Delaware Community Foundation.

DAVID HUGG, STATE PLANNING COORDINATOR, THE DELAWARE OFFICE OF STATE PLANNING COORDINATION, DOVER, DELAWARE

RE: Letter announcing his retirement at the end of July with the State Planning Office, and informing Council of his joining the staff of the College of Human Resources, Education and Public Policy at the University of Delaware as a Policy Scientist.

M 386 01
Authorize
Executive
Session/
Land
Acquisition

A Motion was made by Mr. Jones, seconded by Mr. Rogers, authorizing an Executive Session to held on this date, immediately following the morning session of the County Council meeting, for the purpose of discussing "Land Acquisition".

Motion Adopted: 5 Yea.

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

Appointment

Mr. Stickels advised Council of several Board appointments that have expired.

M 387 01
P & Z
Commission
Appoint-
ment/Robert
Wheatley

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to reappoint Robert C. Wheatley to the Planning and Zoning Commission for a period of 3 years.

Motion Adopted: 5 Yea.

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

M 388 01
Board of
Adjustment
Appoint-
ment/John
Mills

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to reappoint John Mills to the Board of Adjustment for a period of 3 years.

Motion Adopted: 5 Yea.

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

M 389 01 Board of Adjustment Appointment/Dale Callaway A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to reappoint Dale Callaway to the Board of Adjustment for a period of 3 years.

Motion Adopted: 5 Yea.

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

M 390 01 Board of Adjustment Appointment/Jeff Hudson A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to reappoint Jeffrey Hudson to the Board of Adjustment for a period of 3 years.

Motion Adopted: 5 Yea.

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

Sussex Ventures/ Appeal On July 10, 2001, Council held a Public Hearing on the appeal of Subdivision Application No. 2001-2, Sussex Ventures, Inc. At that time, the record was left open an additional 15 days to allow comment from Messrs. John Sergovic and David Weidman, attorneys in reference to the application. To help Council in their review of the record, Council had requested that they be shown a videotape that is part of the record and provided by Mr. Weidman.

The 6-minute video viewed by Council today was shot after a rainfall and showed water standing on the site, which is on Road 297.

M 391 01 Councilmanic Grant/Coverdale Outreach Mission. A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$300 from Mr. Jones' Councilmanic Account to the New Coverdale Outreach Mission, Inc. to be used for their Food Pantry Program.

Motion Adopted: 5 Yea.

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

M 392 01 Councilmanic Grant/Delaware Center for the Inland Bays A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500 (\$200 from Mr. Cole's Councilmanic Account; and \$100 each from Mr. Phillips', Mr. Jones', and Mr. Rogers' Councilmanic Accounts) to the Delaware Center for the Inland Bays to be used for the Rehoboth Folk Music Festival.

Motion Adopted: 5 Yea.

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

M 393 01
Council-
manic
Grant/
CMBIC

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500 (\$250 each from Mr. Rogers' and Mr. Cole's Councilmanic Accounts) to the Charles Mills Boulevard Improvement Corporation (CMBIC) to be used for the landscaping of the median of Highway One.

Motion Adopted: 5 Yea.

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

M 394 01
Council-
manic
Grant/
Edgewater
Estates

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$350 from Mr. Rogers' Councilmanic Account to the Edgewater Estates Property Owners Association, Inc. to be used for their Neighborhood Watch Program.

Motion Adopted: 5 Yea.

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

Request
for Funding/
American
Red Cross

Mr. Stickels informed Council that a letter had been received from the American Red Cross of the Delmarva Peninsula requesting Councilmanic Grant funding to be used to provide relief to victims of disaster and to help people prepare for emergencies. Mr. Baker stated that Council did provide \$2,000 in funding under the County's Human Service Program during last fiscal year.

M 395 01
Refer
Funding
Request by
American
Red Cross
For Human
Service
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, authorizing Mr. Stickels to draft a letter to the American Red Cross advising them of their ability to reapply for Human Service Funding again this year.

Motion Adopted: 5 Yea.

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

M 396 01
Council-
manic
Grant/
Milford
Little
League

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$500 (\$250 each from Mr. Rogers' and Mr. Jones' Youth Activity Grant Funds) to the Milford Little League to be used for program work.

Motion Adopted: 5 Yea.

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

M 397 01
Council-
manic
Grant/
Town of
Delmar

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$250 from Mr. Phillips' Councilmanic Account to the Town of Delmar to be used for the replacement of stop signs within the Town.

Motion Adopted: 5 Yea.

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

M 398 01
Council-
manic
Grant/
Christian
Storehouse
Building
Fund

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500 (\$250 from Mr. Phillips' Councilmanic Account; and \$125 each from Mr. Jones' and Mr. Dukes' Councilmanic Account) to the Christian Storehouse Building Fund to be used for their ongoing building project.

Motion Adopted: 5 Yea.

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

M 399 01
Council-
manic
Grant/
Sussex
Smiles
Dental
Care

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,000 (\$200 from each Councilman's Councilmanic Accounts) to Sussex Smiles Dental Care, Inc. to be used for the nonprofit dental office at The Stockley Center.

Motion Adopted: 5 Yea.

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

Mr. Cole instructed Mr. Stickels to include Sussex Smile Dental Care, Inc. under the County's Human Service Program for the 2002 Fiscal Year.

County
Adminis-
trator's
Report

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

1. County Property Tax Bills

Sussex County property taxes will be mailed August 6, 2001. The 140th General Assembly passed legislation allowing the schools until the second Thursday of July to set their tax rates. I have included with this report the Annual School Rate Comparison for your information. Although the County Council portion of the property tax has not increased, Councilmen may receive calls as to why the overall property tax bill shows an increase.

The Indian River School District, Seaford School District, Woodbridge School District, and Cape Henlopen School District have increased their rate.

Adminis-
trator's
Report
(Con't.)

The Laurel School District property tax rate remains the same. Milford School District, Delmar School District, and Sussex Tech have decreased their charges.

Anyone having questions regarding their property tax bill should contact the Treasury Division at 855-7760.

2. Proposed Miller Creek Sanitary Sewer District

The Sussex County Engineering Department will conduct a Public Hearing on the boundaries, potential user costs, and the Environmental Assessment of the proposed Miller Creek Sanitary Sewer District. The Public Hearing will be held on Saturday, July 21, 2001, at 9:30 a.m. at the Millville Fire Hall, Route 26, Millville, Delaware. All interested persons, officials, residents, voters, taxpayers, property owners, or other persons or corporations in any way affected by the establishment of this district or wishing to be included in this district shall be heard.

Old
Business
(C/Z No.
1432)
David
Ritter

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

The Planning and Zoning Commission held a Public Hearing on April 19, 2001, at which time action was deferred for the purpose of receiving additional information relating to permits and violation notices. On May 24, 2001, the Commission discussed the application under Old Business, and it was their recommendation that the application be forwarded to the Sussex County Council with the unanimous recommendation that it be denied based on concerns relating to the applicant's acknowledgement that he was in violation of the zoning code; that he left a commercial area and relocated his business in an AR-1 district and opened the business; that the applicant was not in compliance with the zoning code; that the applicant's conduct had some residents concerned; and that approving this application would create a precedent that others would attempt to develop projects without approval.

The Sussex County Council held a Public Hearing on May 15, 2001, at which time the Public Hearing was closed, action was deferred, and the record was left open for letters from the Sussex County Building Code Department, the State Fire Marshall's Office, and the Sussex Conservation District. Council again discussed this change of zone application under Old Business on June 19, 2001, at which time Council tabled action. Due to the absence of Mr. Cole at the June 19, 2001 meeting, it was the recommendation of Mr. Stickels that the vote on the application be held at such time that Mr. Cole would be able to participate.

Council, again today, discussed the zoning violation notices that the applicant had received on his boat sales and service business on Route 24 in Long Neck. Mr.

Stickels informed Council that the applicant had paid all fines imposed for the violations, had obtained all necessary permits, and would be in compliance if the rezoning was approved. Mr. Bayard reminded Council that the matter before Council today was a matter of land use and not a question of a violation of the zoning ordinance.

M 400 01
Adopt
Ordinance
No. 1477
(Change
of Zone
#1432)/
David
Ritter

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1477 entitled, "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.291 ACRES, MORE OR LESS" (Change of Zone No. 1432) filed on behalf of David A Ritter.

Motion Adopted: 3 Yea; 2 Nay.

Vote by Roll Call: Mr. Phillips, Nay; Mr. Cole, Yea;
Mr. Rogers, Nay; 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 property is in a Development District in a busy commercial area, and is thereby consistent with the purposes and goals of the Comprehensive Land Use Plan. With the conditions imposed by the permitting agencies, there will be no adverse impact of any sort, while serving the convenience of area residents and visitors.
2. The record of the Planning and Zoning Commission is incorporated herein.

Mr. Cole raised concern and suggested that the County not accept applications from an individual or corporation that is in violation of County ordinance. Mr. Dukes stated that Council, at it's June 19, 2001 Council meeting, had directed Mr. Bayard to draft an Ordinance that would give the County more force in a cease and desist order. Upon the introduction of such an Ordinance, a Public Hearing will be scheduled.

Old
Business
(C/U No.
1397)
Delaware
Guidance
Services

Council discussed Conditional Use No. 1397 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COUNSELING AND GUIDANCE SERVICES FOR CHILDREN AND THEIR FAMILIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.74 ACRES, MORE OR LESS" (Conditional Use No. 1397) filed on behalf of Delaware Guidance Services for Children and Youth, Inc.

The Planning and Zoning Commission held a Public hearing on May 10, 2001, and it was their unanimous recommendation that the application be denied based on concerns relating to the location, traffic and safety factors.

The Sussex County Council held a Public Hearing on this application on June 5, 2001, at which time the Public Hearing was closed and the record left open until 4:30 p.m. on June 26, 2001 to allow the applicant and the opposition to perform title searches for the purpose of submitting their findings to Council and to provide any argument regarding the findings.

At the June 26, 2001 Council meeting, Mr. Bayard informed Council that a request had been received from William Schab, attorney for the opposition, requesting an additional time extension. Because Mr. Schab's request was a nonadvertised agenda item and would have required the readvertisement and renote of the hearing for the sole purpose of reopening the record to allow additional time, Mr. Schab was notified by Mr. Bayard on that same date that an extension was not possible.

Mr. Bayard reported that a title report had been received from the attorney of the applicant; and that a title report had not been received from the attorney representing the opposition. Mr. Bayard informed Council that the road in question is a public road according to the title report.

M 401 01
Adopt
Ord. No.
1478 with
conditions/
C/U No.
1397
(Delaware
Guidance
Services
For
Children
& Youth)

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1478 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR COUNSELING AND GUIDANCE SERVICES FOR CHILDREN AND THEIR FAMILIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.74 ACRES, MORE OR LESS" (Conditional Use No. 1397) filed on behalf of Delaware Guidance Services for Children and Youth, Inc., with the following conditions:

1. The use shall be for counseling and guidance services for children and their families;
2. The facility shall have staff present 24 hours per day, 7 days per week;
3. The site shall be served as part of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District;
4. There shall be no direct ingress or egress to or from the site directly to Delaware Route One;
5. The site plan shall be subject to review and approval by the Sussex County Planning Commission; and
6. Best Lane shall be paved to State specification from Route 1 to the entrance to the applicant's project.

Motion Adopted: 4 Yea; 1 Nay.

M 401 01
(Con't)

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

Findings
of Fact/
C/U #1397

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

1. A conditional use is appropriate for this parcel of land. A conditional use will permit a public service that is essential and desirable while allowing planning judgment and control through the imposition of appropriate conditions of approval;
2. The proposed conditional use is in accordance with the Sussex Land Use Plan in that:
 - a. It is located in the designated development district and central water and sewer are available;
 - b. There are no negative environmental effects and the conditional use will provide needed public service and employment;
 - c. It is located near commercial development and will serve as a buffer between that commercial development and the nearby lower-density residential development;
 - d. It is not in the Agricultural Zone or the Coastal Conservation Zone;
 - e. The type of use proposed is in accordance with the development anticipated by the land use plan, which recognizes that development should be concentrated in those areas where central water and sewer are available;
 - f. The applicant has shown that the proposed use is appropriate and in conformity with the plan and the Land Use Map.
3. The request promotes the health, safety, morals, convenience, order, prosperity and general welfare based on the evidence and testimony presented including the following:
 - a. Adequate fire and police protection are available nearby;
 - b. The use is located in an area which is appropriate for this conditional use in that it is characterized by a mixture of commercial development of various degrees of intensity;
 - c. That adequate central water and public sewer facilities are available and that there will be no adverse impact on nearby properties;
 - d. That adequate utility services, schools, medical facilities and shopping areas are available nearby;

Findings
of Fact
(Con't.)

- e. That the property is located in an existing mixed commercial/residential area designated as the development district and the proposal will not adversely affect agriculture;
- f. That the character of the existing area is mixed commercial/residential and that the site is suitable and appropriate for the proposed use, and does not appear to have any adverse impact on property values, nearby property uses or natural resources;
- g. That there is a need for the proposed use which provides valuable services for Sussex County young people and their families benefiting the public welfare;
- h. That the applicant currently operates an identical facility approximately 1200' north of the proposed site and has operated there since 1996. There is no history of the use having any adverse impact on the area. The lease has expired on that location.
- i. The site is centrally located for the area served by the applicant.
- j. That the use will not adversely affect traffic in the area. That the entrance will be from Best Lane, a road dedicated to the public, which will be paved by the applicant or developer;
- k. That the use is of a semi-public character which provides a needed and valuable service to County residents; and
- l. That these findings are based on substantial evidence comprised of the reasons stated above, and the testimony and evidence presented by the applicant.

Indian
River
School
District
Expansion
Request
Update/
Dagsboro-
Frankford
Sanitary
Sewer
District

Russell Archut, Assistant County Engineer, was in attendance to discuss and update Council regarding the Indian River School District Expansion Request, which also relates to a Public Hearing to be held by Council at 1:30 p.m. today regarding Conditional Use No. 1409, and the portion of land that is needed to be annexed into and served by the Dagsboro/Frankford Sanitary Sewer District. Mr. Archut explained that the applicant inquired in late June as to being included in the sewer district, which resulted in a Memorandum of Understanding being drafted and sent to the applicant last week. Because only 9 acres, of the approximately 157 acres for C/U No. 1409, are in the sewer district at this time, the annexation procedure is necessary to allow inclusion of the additional 148 acres. Once the MOU is received from the applicant, Mr. Archut stated that he would come back before Council to seek agreement and approval of the Memorandum of Understanding and to allow for the posting of notices for the expansion of the boundaries to include the school.

Mr. Cole inquired as to the feasibility of the residents of Prince George's Acres, who live in close proximity to the proposed Indian River High School, being polled as to their interest in being included in this sewer extension request. It was the recommendation of Mr. Archut that Prince George's Acres be considered as a separate annexation request.

Proposed
Land
Acquisition
Program

Mr. Phillips introduced Michael McGrath, Chief of Planning with the Delaware Department of Agriculture. Mr. McGrath was in attendance today, at Councilman Phillips' request, to share ideas and give an update on matters that may be helpful to Council in their recent discussions regarding the possibility of developing a Land Acquisition Program. Currently, the State of Delaware has spent \$19.7 million in Sussex County to purchase development rights and, thereby, permanently preserving 18,481 acres of farmland, forestland, habitat and the associated lands on 88 Sussex County farms; Statewide the figure is \$61.4 million for 273 farms. Thru the State's Development Rights Program, the State buys an equitable interest in the development rights of farms, which means that the farms remain in the ownership of the owner and the owner continues to pay taxes. One of the distinctive differences between this program and others offered by the State is that the Farmland Preservation Program retains these lands in private use, while also contributing to the tax base of the State and of the County. Mr. McGrath stated that an additional 177 farms throughout Delaware are waiting to sell their development rights. These farms have easement rights valued at approximately \$64 million, with over half of this value in Sussex County. Among private landowners in the State, Sussex County has the largest degree of interest of anywhere in the State. Approximately \$6 million has been allocated by the State for the coming fiscal year, which is a fraction of the demand for the preservation of farmland in Delaware.

Mr. McGrath stated he was very pleased to hear that the County Council had interest in participating in land preservation and protection. The State's Farmland Preservation Program works on a bid system. Thru this bid system, once appraisals are performed on the 177 pending applications, the appraisals would be delivered to the owners. Once the fair market value of their development rights have been determined, the owner would then determine the best discount rate they would offer the State for their farmland. At the present time, the rate that an owner has to discount the value of their easement runs around 50 percent. It has been Mr. McGrath's suggestion that a local government could augment the State's program by sharing in the discount rate for farms located in their jurisdiction. Mr. McGrath offered that thru a Land Acquisition Program, it could be possible for the County, thru the use of easements, to target particular land use goals.

Mr. Stickels mentioned that Delaware is first in the nation, per capita, for farmland preservation. Mr. McGrath added that it is the State's estimate that within the next 12 to 24 months, Sussex will move into the elite 10 top counties in the United States for farmland acreage preserved.

Upon being asked, Mr. McGrath stated that his office did help write the legislation for and does support "Transfer of Development Rights".

Mr. Stickels and Mr. Dukes requested Mr. McGrath to summarize his comments and ideas into written format for Council's review.

As decided by Council at last week's meeting, the topic of a Proposed Land Acquisition Program has been scheduled for further discussion at the July 24, 2001 Council meeting.

M 402 01 At 11:56 a.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to recess
Recess and go into Executive Session. Motion Adopted by Voice Vote.

Executive An Executive Session of the Sussex County Council was held Tuesday, July 17,
Session/
Land 2001, at 12:00 noon, in the Caucus Room of the Council Chambers, Sussex County
Acquisition Administrative Office Building, Georgetown, Delaware, with the following present:

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

Matters relating to land acquisition were discussed.

M 403 01 At 12:06 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to
Adjourn adjourn the Executive Session. Motion adopted by Voice Vote.
Executive

M 404 01 At 12:07 p.m., A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to
Recess recess until 1:30 p.m. Motion adopted by Voice Vote.

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

Public A Public Hearing was held on the Proposed Ordinance entitled, "AN ORDINANCE
Hearing TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
(C/U No. RESIDENTIAL DISTRICT FOR A PUBLIC SCHOOL (SUSSEX CENTRAL
1408) HIGH SCHOOL) TO BE LOCATED ON A CERTAIN PARCEL OF LAND
IRSD LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY,
 CONTAINING 159.57 ACRES, MORE OR LESS" (Conditional Use No. 1408)
 filed on behalf of Indian River School District.

The Planning and Zoning Commission held a Public Hearing on this application on June 28, 2001, at which time they recommended approval with 2 stipulations to include concerns expressed as to outside lighting and that the site plan will be subject to review and approval by the Planning and Zoning Commission. The record of the Public Hearing held by the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Griffin, attorney; Mr. Greg Weer, Supervisor of Building and Grounds for the Indian River School District; and Mr. Greg Moore, Professional Engineer of the Becker Morgan Group, were in attendance on behalf of the application.

Mr. Griffin stated that the 159.57 acres has been already been deeded to the Indian River School District by the State. The deed, which has been signed by the Governor, has not been recorded because of needing County Council's approval of

Public
Hearing
(Con't.)
C/U No.
1408

this application. Once Council approval has been obtained, the sale of the land from the State will go forward. In order for the school district to proceed with this project, approval of the Delaware Department of Education was obtained. Mr. Griffin also noted that the approval received from the Department of Education was contingent upon approval of the site by DelDOT, whose consent was, in fact, obtained.

Mr. Weer informed Council that a site selection committee comprised persons from DelDOT; David Hugg, of the State Planning Office; Senator Bunting; and others. It was the consensus of this group that the Stockley site was the preferred site for the proposed high school.

Council expressed concerns regarding sewer. Mr. Weer stated that sewer needs would be addressed by a dedicated force main, which will be turned over to the Town of Georgetown. Mr. Moore also added that he has designed the pump station to only meet the demands and needs of the applicant, and no future expansion has been designed into the pump station and force main. The pump station and force main will be turned over to the Town of Georgetown who, in turn, will own, operate and maintain the system.

Mr. Griffin stated that it is hoped the project can break ground in September 2001, with a bid opening on construction to occur in late July, and awarding of the bid to occur in August. Construction will take approximately 2 years.

Because this project is located in an agricultural area, concerns were expressed by Council as to its impact on the Governor's "Livable Delaware" initiative and the intent to channel growth to development zones. While Council has no problem with the proposed application and agrees that the school district is an innocent party, concern centered on the fact that this application does seem to conflict with State initiatives. It was the consensus of the Council that a letter be obtained from David Hugg, with the Delaware State Planning Office, stating his approval of the site proposed for this project.

Public comments were received in opposition from Daniel Kramer, which centered on concerns regarding whether the applicant would pay to have all roads paved around the proposed site or just one portion.

It was the consensus of the Council to leave the Public Hearing record open and to put the application back on the agenda at next week's Council meeting.

M 405 01
(C/U 1048)
Defer
Action &
Leave
Record
Open

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to leave the Public Hearing record open and to defer action on Conditional Use No. 1408 pending receipt of a letter from the Delaware State Planning Office, or until such time Council deems it is necessary to put the application back on the agenda.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/U No.
1409)
IRSD

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 AND A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PUBLIC SCHOOL (INDIAN RIVER HIGH SCHOOL) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 156.80 ACRES, MORE OR LESS" (Conditional Use No. 1409) filed on behalf of Indian River School District.

The Planning and Zoning Commission held a Public Hearing on this application on June 28, 2001, at which time they recommended approval with 5 stipulations. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Griffin, attorney; Mr. Greg Weer, Supervisor of Building and Grounds for the Indian River School District; and Mr. Greg Moore, Professional Engineer of the Becker Morgan Group, were in attendance on behalf of the application.

A draft Memorandum of Understanding (MOU) has been sent to Mr. Griffin by the County's Engineering Department, which outlines the responsibilities of both the Indian River School District and the Sussex County Council. The MOU must be executed prior the Indian River School District's property being annexed into the Dagsboro/Frankford Sanitary Sewer District.

Public comments in opposition were received from Mr. Al Townsend, a neighboring property owner. Mr. Townsend stated that it was relayed at the Planning and Zoning Commission meeting that the driveway on Road 401 would be a limited use road, but the intent was now being stated that it would be used as an actual third entrance. Mr. Townsend informed Council that his driveway is located within 20 feet of the entrance being proposed on Road 401. Concern was also expressed regarding his property not being used for any needed turn lanes for that entrance.

Mr. Griffin stated another parcel of land has been obtained to satisfy the 50' requirement of DelDOT, and the entrance would only be used during school hours. Since this entrance will be gated after school hours, Mr. Griffin stated that the entrance will, in fact, be a limited-use entrance.

The Public Hearing was closed.

M 406 01
Adopt
Ord. No.
1479 with
conditions/
C/U No.
1409
(IRSD)

A Motion was made by Mr. Cole, seconded by Mr. Jones, to adopt Ordinance No. 1479 entitled, " AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PUBLIC SCHOOL (INDIAN RIVER HIGH SCHOOL) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 156.80 ACRES, MORE OR LESS" (Conditional Use No. 1409) filed on behalf of Indian River School District, subject to the following conditions:

1. All lighting fixtures to be shielded and/or baffled to direct the lights so that they do not impact neighboring properties or travelling motorist;

2. The entrance on Road 401 shall be gated and shall have a key-box lock for emergency access. The gate shall be located at least 40-feet from the right-of-way of Road 401;
3. A solid vinyl-clad or PVC type fencing shall be erected along the entire length of the Alden Townsend property line. The fencing shall be no taller than 3-feet in the first 25-feet of length from Road 401, no taller than 3.5 feet from 25-feet back to 40-feet, and then 7-feet to rear property corner of the Alden Townsend property;
4. The school service use entrance on Road 355 shall be gated and shall have a key-box lock for emergency access. The gate shall be located at least 40-feet from the right-of-way of Road 355. Any other use of the entrance, other than school service uses, shall require an amendment to the Conditional Use; and
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
6. Final site plan approval is contingent upon the execution of the draft Memorandum of Understanding between the applicant and the Office of the Sussex County Engineer.

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

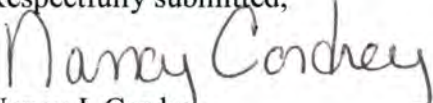
The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use serves a clear public need, is well located, is consistent with the purposes and goals of the Comprehensive Land Use Plan, and will promote both public education and agricultural science, without adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 407 01
Adjourn

At 2:43 p.m., a Motion was made by Mr. Jones, seconded by Mr. Rogers, to adjourn. Motion Adopted by Voice Vote.

Respectfully submitted,


Nancy J. Cordrey
Assistant Clerk of the County Council