

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 23, 2002**

**Call to Order** The regular meeting of the Sussex County Council was held Tuesday, July 23, 2002, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

**M 460 02** A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by striking the name of Thomas Baker, Utility Construction Division, and substituting the name of Michael Izzo, County Engineer; and to approve the Agenda, as amended.

**Motion Adopted:** 5 Yea.

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

**M 461 02** A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the minutes of July 16, 2002, as distributed.

**Motion Adopted:** 5 Yea.

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

**Corre-spondence** Mr. Bayard read the following correspondence:

**ED HANNIGAN, PRESIDENT, LAUREL CHAMBER OF COMMERCE, LAUREL, DELAWARE.**

**RE: Letter to Mr. Dukes in appreciation of grant.**

**CHARLENE E. HUBERT, FUNDRAISING CHAIR/GRANT WRITER, CHRISTIAN STOREHOUSE, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of grant.**

**Prime Hook National Wildlife Refuge/ Payment in Lieu of Taxes** **Mr. Stickels** reported that a check in the amount of \$61,931.00 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. The check represents payment under the Refuge Revenue Sharing Act covering the Fiscal Year 2001. Sussex County may use the funds for any governmental purpose. Mr. Stickels noted that the payment of \$61,931.00 is a substantial increase over last year's allocation in the amount of \$37,263.00.

**Mr. Rogers** expressed his displeasure that the fire companies serving the refuge do not receive any of the funds.

**Mr. Stickels** presented for Council's authorization, the recommended distribution of the Refuge Revenue Sharing Funds, as follows: Sussex Vocational School District – \$5,060.71; Cape Henlopen School District - \$32,649.92; Milford School District - \$15,330.12; Library - \$962.36; and Sussex County - \$8,927.89.

**M 462 02 Authorize Distribution/ Refuge Revenue Sharing Funds** A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council authorizes the distribution of the Refuge Revenue Sharing Funds, as proposed.

**Motion Adopted:** 5 Yea.

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

**C-Grade Dwelling Procedure** **Mr. Eddy Parker**, Director of Assessments, addressed Council on the subject of the County's C-Grade Dwelling Procedure. Since January 2002, the Assessment Office has issued approximately 550 letters for C-Grade Dwelling changes.

At the July 16th Council meeting, Mr. Parker recommended that the Council consider charging an appropriate fee for this service based on the amount of time that County staff is devoting to it. Mr. Parker was instructed to prepare a cost analysis showing the County's cost in processing these requests versus any increased revenue realized through property taxes.

**Mr. Parker** reported his findings:

- Total cost to the County equals \$45.36 plus mailing fees, if required.
- The change in assessment will result in approximately \$9.00 in additional tax revenue per year.

**Mr. Parker** recommended that an administrative fee of \$35.00 be charged for this service.

**M 463 02** **Approve Administrative Fee for Reassessing Manufactured Homes to Class C** **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, that the Sussex County Council approves the request of the Assessment Division to charge an administrative fee in the amount of \$35.00 for reassessing manufactured homes to the Class C Assessment Classification.**

**Motion Adopted:** **5 Yea.**

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

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

**1. Route 24 Planning Study**

The Delaware Department of Transportation is holding a Public Workshop to present information and solicit public comments regarding transportation planning on Route 24 in Sussex County. A workshop will be held on August 1, 2002 from 4:00 to 7:00 p.m. at the Long Neck Elementary School, School Lane, Long Neck, Delaware. The public is invited to attend any time between 4:00 and 7:00 p.m. The purpose of the study has been to develop and evaluate multi-modal improvements that will address transportation needs. The study is in the final phase, where specific recommendations will be presented. Recommendations include a multi-component approach:

- Route 24 Corridor Preservation
- Route 24 improvements (roadway and intersection)
- Designation of alternate Route 24
- Secondary roadway upgrades to include shoulders
- Expansion of transit routes

With 3 proposed subdivisions in the Long Neck area, I would encourage residents to attend this important planning study workshop.

**2. Cedar Neck Road Collection and Conveyance Contract**

The County Engineering Department opened bids on July 30 for Contract A for the Cedar Neck Sanitary Sewer District. Bids that were received are as follows:

**Administrator's  
Report  
(continued)**

**Bidder**      **Base Bid  
Schedule**      **Alternate Bid  
Hot Mix Upgrade  
For Tar & Chip  
Streets**

American Paving Corporation Eden, Maryland	\$1,684,712.50	\$1,691,862.50
Bunting & Murray Selbyville, Delaware	\$1,855,245.71	\$1,861,095.00
Teal Construction Dover, Delaware	\$2,136,035.00	\$2,137,335.00
Engineer's Estimate	\$2,969,799.00	\$2,976,299.00

In March 2000, the Engineer's Estimate for the entire project was \$11.5 million. This estimate was revised in February 2001 to \$14.9 million. The Engineering Department will be reviewing the bids and establishing new cost estimates for the entire project. There are still 4 additional contracts to be bid for this project.

**3. South Ocean View Sanitary Sewer District Referendum**

The County Engineering Department - Planning and Permit Division, conducted a referendum for the proposed South Ocean View Sanitary Sewer District between the hours of 8:00 a.m. and 2:00 p.m. on Saturday, July 20, 2002. The results of the referendum were 137 for the sewer district, 45 against the sewer district, with a total of 182 voting. Of the 182 votes counted, 145 votes were in person and 37 voted by absentee ballot. A Resolution creating the sewer district will be presented to the Sussex County Council for their consideration within 30 days of the referendum passage, as required by State law. This new sewer district will eliminate approximately 296 septic systems. This will prevent 5,285 lbs. per year of total nitrogen and 404 lbs. per year of total phosphorus from entering the groundwater that feeds Indian River Bay.

I would like to thank Mr. Izzo and Mr. Archut, and their staff, for their work in successfully passing this referendum.

**Old  
Business/  
C/Z  
No. 1470**

Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.36 ACRES, MORE OR LESS (Change of Zone No. 1470) filed on behalf of Trout, Segall & Doyle Development Co.,

**Old Business/  
C/Z  
No. 1470  
(continued)** L.L.C. Mr. Lank reported that the Planning and Zoning Commission deferred action on this application on June 13th and recommended approval of this application on June 27th.

**M 464 02  
Adopt  
Ordinance  
No. 1554  
(C/Z  
No. 1470)** The County Council discussed this application on July 9th at which time action was deferred so that Mr. Rogers could listen to the taped proceedings, review the documents, and participate in the vote on the application.

**A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt Ordinance No. 1554 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.36 ACRES, MORE OR LESS (Change of Zone No. 1470) filed on behalf of Trout, Segall & Doyle Development Co., LLC.".**

**Motion Adopted:** 4 Yea, 1 Nay.

**Vote by Roll Call:** Mr. Phillips, Yea; Mr. Cole, Nay;  
Mr. Dukes, Yea; Mr. Rogers, Yea;  
Mr. Jones, 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 proposed project meets the purpose of the Zoning Ordinance in that it promotes the orderly growth of the County because it is in a Development District as established by the 1997 Sussex County Comprehensive Plan.
2. The proposed project will provide neighborhood shopping and businesses which will serve the adjacent and current developments, create a village scale center and will be integrated with adjacent residential uses. This project provides for grocery and convenience shopping for the area without the necessity of traveling to Ocean City, Fenwick Island, or Selbyville, thus reducing vehicle traffic on Route 54.
3. The subject property is in an area along the Route 54 corridor that has developed with other commercial uses including C-1 and B-1 zoning adjacent to and directly across Route 54 from the site. The proposed project is in character with the nature of that area.
4. Central water and central sewer are available to serve the project.

Old  
Business/  
C/Z  
No. 1471

**Council discussed 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-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 109.51 ACRES, MORE OR LESS (Change of Zone No. 1471) filed on behalf of Gladys A. Swann/Trout, Segall & Doyle Development Co., LLC.**

Mr. Lank reported that the Planning and Zoning Commission deferred action on this application on June 13th and recommended approval of this application on June 27th.

The County Council discussed this application on July 9th at which time action was deferred so that Mr. Rogers could listen to the taped proceedings, review the documents, and participate in the vote on the application.

M 465 02  
Adopt  
Ordinance  
No. 1555  
(C/Z  
No. 1471)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1555 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 109.51 ACRES, MORE OR LESS (Change of Zone No. 1471) filed on behalf of Gladys A. Swann/Trout, Segall & Doyle Development Co., LLC, with the following conditions:

1. The maximum number of units shall not exceed 372 single family detached units.
2. Residential building permits shall not exceed 60 per year.
3. No commercial activities are permitted within this project.
4. Site plan review is required for each phase of development.
5. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be on at least one side of the road which is developed exclusively for single-family residential lots, with sidewalks on both sides of the entrance boulevard. Access shall be provided to TM Parcel No. 5-33-12-82. There shall be no street interconnection to Magnolia Shores Subdivision, except for access to TM Parcel Nos. 5-33-12-69, 69.01, and 70.
6. All entrances, intersections, roadway improvements, and multimodal facilities required by DelDOT shall be completed by the applicant as

**M 465 02**  
**(continued)**

required by DelDOT or in accordance with any further modification required by DelDOT.

7. Within one (1) year of the approval of the master plan, the applicant shall coordinate with the State, County, and other local emergency planning offices in the development and implementation of an emergency evacuation procedure for the project.
8. Recreational facilities, e.g., walking trails, swimming pool, club house, etc., shall be constructed and open to use by the residents within two years of the issuance of the first building permit.
9. The RPC shall be served by an existing or an extended Sussex County sanitary sewer district.
10. The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
11. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. If it is determined that additional areas are required for stormwater management, parking, or other use, the additional area shall be taken from lot areas, not designated State or Federal wetlands or open space areas.
12. State wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas.
13. There shall be a fifty foot (50') buffer from all tidal wetlands in accordance with Sussex County Code Section 115-193.
14. No individual boat dock or boat launching facilities for motorized boats shall be permitted.
15. No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except such site work for which a permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the applications for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.

**M 465 02**  
**(continued)**

**Motion Adopted:** **4 Yea, 1 Nay.**

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

**Findings  
of Fact**

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

**A. The proposed development's location is appropriate for the MR/RPC zoning.**

1. **MR zoning is appropriate for this parcel of land. The purpose of the MR Zoning District is to provide medium-density residential development in areas expected to become generally urban in character and where central water and sewer may be available. The application is consistent with the stated purpose of MR zoning.**
2. **A Residential Planned Community (RPC) designation is appropriate for this parcel of land. The purpose of an RPC is to encourage large scale developments using design ingenuity to create superior living environments while protecting existing and future developments and achieving the goals of the Comprehensive Plan. This application is consistent with the stated purpose of an RPC zoning designation.**

**B. The proposed development is in accordance with the 1997 Sussex County Comprehensive Plan in that:**

1. **It is located in the designated development district where future growth is directed.**
2. **The development will be served by Sussex County sewer and by central water provided by Tidewater Utilities.**
3. **The adjacent and nearby properties are already developed with extensive residential uses and commercial uses.**
4. **The development is consistent with the Plan's housing element and community design element in that it provides a range of housing for permanent residents to serve the existing and projected demand for housing in the area. The Comprehensive Plan projects an increase in the number of households in Sussex County during the 1990 to 2020 time period from 43,483 to 73,292 establishing a need for additional housing units.**
5. **The 372 residential unit density proposed is consistent with the density recommended by the Plan.**

**Findings  
of Fact**

6. The Plan recognizes that higher residential density is appropriate for sites in the development district in order to obtain the Plan's goal of preserving agricultural areas by concentrating development in the planned development district.
7. The site is consistent with the development patterns recognized in the State of Delaware proposed strategies for State Policies and Spending and is located in the environmentally sensitive developing area under the State Map.
8. The site is consistent with the Comprehensive Plan's Future Land Use Map.
9. The nature of the development is consistent with the design, variety, and community interaction goals of the Plan.
10. The development is consistent with the Plan's goal of passive and active recreation facilities as part of a residential development in that significant physical amenities will be provided including a clubhouse, swimming pool, tot lot, and walking trails.
11. The development is consistent with the State of Delaware Plans of State Policy & Spending. The site is located in the environmentally sensitive developing area. The development is designed to minimize impact on the inland bays.

C. The requested change of zone promotes the health, safety, morale, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County based on the evidence and testimony presented by the applicant including the following.

1. Adequate fire and police protection are available nearby.
2. That the character of the area is appropriate for the proposed development. There are existing residential developments surrounding the site including both single family, multi-family and manufactured home developments.
3. The development is consistent with the historical trend of development in the area and with the intended plan for future development as stated in the Comprehensive Plan. Nearby developments in the area have higher density than that proposed including Bayville Shores (5.2 u/ac), Shady Park (4.2 u/ac), Swann Keys (6.6 u/ac), and Mallard Lakes (7.2 u/ac).
4. That adequate central water (from Artesian Water Co., Inc.) and County sewer facilities and capacities are available and that there will be no adverse impact on nearby properties.

**Findings of Fact**

- 5. That adequate utility services and shopping areas are conveniently accessible from the site.
- 6. That the development will provide a substantial direct economic impact to Sussex County in terms of sewer fees, property taxes and transfer taxes and will create a significant secondary economic impact.
- 7. That the property is located in an existing mixed residential – commercial area designated as a development district and the proposed development will have no adverse effect on the uses or values of existing property and will conserve property values.
- 8. Natural resources will be conserved and there will be no adverse environmental impact in that the site will provide a 50 foot buffer from Dirickson Creek. County sewer and water will be provided and storm water management will be designed in full compliance with the requirements of all State and County agencies.
- 9. That the density and design of the development will provide residential housing at an appropriate density in a planned development area thus providing protection of agricultural lands elsewhere in the County as intended by the Land Use Plan.
- 10. Entrance and roadway improvements shall be in accordance with the requirements of DelDOT.
- 11. No Federal or State wetlands are located on the site.

**Dagsboro-Frankford SSD/Sewer Extension**

Mr. Archut, Assistant County Engineer, reported to Council that a request has been received from Anthony Manuel to include his property (on Honolulu Road) in the Dagsboro – Frankford Sanitary Sewer District. Mr. Manuel's request to be annexed into the sewer district is due to the fact that his septic tank is failing.

**M 466 02 Post Notices for Dagsboro-Frankford SSD Sewer Extension**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, that the Sussex County Engineering Department is authorized to post notices for the extension of the Dagsboro - Frankford Sanitary Sewer District to include the Anthony Manuel property.

**Motion Adopted:** 5 Yea.

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

**Waste-water Facilities**

Mr. Izzo, County Engineer, discussed wastewater facilities constructed in Rehoboth Beach Yacht & Country Club, Phase 10. Mr. Izzo presented, for Council's approval, an agreement to do an inspection of the sewer line

(continued) construction.

**M 467 02 Execute Agreement/ Rehoboth Beach Yacht & Country Club** A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 238, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Great South Beach Improvement Company, for wastewater facilities to be constructed in Rehoboth Beach Yacht & Country Club – Phase 10, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

**Motion Adopted:** 5 Yea.

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

**Requests** Mr. Stickels presented requests for funding.

**M 468 02 Council- manic Grant** A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$400.00, \$200.00 each from Mr. Rogers' and Mr. Jones' Councilmanic Accounts, to Milford Community Parades, Inc. for the 2002 Community Parade.

**Motion Adopted:** 5 Yea.

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

**M 469 02 Youth Activity Grant** A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00, \$100.00 from each Youth Activity Account, to Delaware District III Little League Baseball for the purchase of uniforms.

**Motion Adopted:** 5 Yea.

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

**M 470 02 Council- manic Grant** A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$500.00 from Mr. Phillips' Councilmanic Account to the Delmar School District for improvements to the library/media center.

**Motion Adopted:** 5 Yea.

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

**M 471 02**      A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$150.00 from Mr. Phillips' Councilmanic Account to American Co-Ed Pageants for Brooke Mitchell's participation in the National American Coed Scholarship Pageant.

**Motion Adopted:**    5 Yea.

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

**Proposed Ordinance**      Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY USE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.34 ACRES, MORE OR LESS" (Conditional Use No. 1467) filed on behalf of Bebe E. Moore. The Proposed Ordinance will be advertised for Public Hearing.

**M 472 02**      A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to adjourn at 11:04 a.m. Motion Adopted by Voice Vote.

**Luncheon**      At 12:30 p.m., Councilmembers and staff attended a luncheon held by the Sussex County Association of Realtors at the Cheer Community Center in Georgetown. Mr. Stickels took the opportunity to announce the date, time, and place of the Public Hearings on the Sussex County Land Use Plan Update

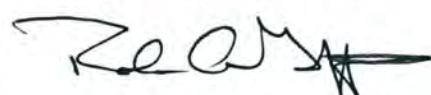
**Public Hearing – Planning and Zoning Commission**

Thursday, August 29, 2002  
6:00 p.m.  
CHEER Community Center, Sand Hill Road, Georgetown

**Public Hearing – Sussex County Council**

Tuesday, October 1, 2002  
6:00 p.m.  
CHEER Community Center, Sand Hill Road, Georgetown

Respectfully submitted,



Robin A. Griffith  
Clerk of the Council