

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 27, 1999

Call to Order The regular meeting of the Sussex County Council was held Tuesday, July 27, 1999, 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
Dale R. Dukes	Member
George B. Cole	Member
Vance Phillips	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 368 99 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the
Approve Agenda, as presented.
Agenda

Motion Adopted: 5 Yea.

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

M 369 99 A Motion was made by Mr. Rogers, seconded by Mr. Cole, to approve the
Approve minutes of the previous meeting, dated July 20, 1999.
Minutes

Motion Adopted: 5 Yea.

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

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

LAUREL CHAMBER OF COMMERCE, LAUREL, DELAWARE.
RE: Letter in appreciation of Councilmanic Grant.

5310
Transportation
Program

Mr. Stickels discussed the 5310 Transportation Program; a program administered by the Delaware Transit Corporation (DTC) to provide assistance to certain qualifying agencies for the transportation (purchase of buses) of the elderly and persons with disabilities. The 5310 Program requires the qualifying agencies to agree to comply with the program's rules and regulations, and the agencies compete for funding in an annual certification/approval process. The normal match of Federal funds to other (local) funds is on an 80/20 funds basis.

In the past, the certification/approval process was handled by the Delaware Department of Transportation (DelDOT). This year, all three counties were asked to participate in the certification/approval process by establishing committees to review the applications received. Mr. Stickels reported that only two applications were received from Sussex County, one from Kent Sussex Industries and one from Sussex County Senior Services (CHEER). The Committee ranked both of these applications "High". Three agencies that provide services to Sussex County but are located in New Castle County also applied, as follows: Aids of Delaware, United Cerebral Palsy of Delaware, and Generations Home Care. The Committee ranked these three applications "Low". It is the Committee's opinion that since these agencies are based in New Castle County, their funding should come from New Castle County's allocation.

The Committee has recommended that Delaware Department of Transportation be requested to provide three buses for Sussex County Senior Services (CHEER) and one bus for Kent Sussex Industries.

M 370 99
Endorse
Committee's
Recommendation for
5310
Transportation
Program

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to endorse the Committee's recommendation to request three buses for Sussex County Senior Services (CHEER) and one bus for Kent Sussex Industries in accordance with the 5310 Transportation Program.

Motion Adopted: 5 Yea.

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

Policy
Regarding
Violators
of Zoning
Regulations

Mr. Rickard, Chief Zoning Inspector, and Mr. Parker, Director of Assessment, discussed the County's current policy regarding violators of zoning regulations. Mr. Rickard explained that when the Planning & Zoning Department is advised of a violation or when a possible violation is discovered, an inspector visits the site to verify that a violation does exist. If a violation does exist, a violation notice is issued. Generally, the violator is given ten days to correct the violation. If the violation cannot be corrected, the violator is required to file a change of zone, conditional use or a variance application. If, within thirty days,

Policy
(continued)

corrective action has not been taken, the violation report is forwarded to the Constable's Office for action. Mr. Parker reported that once the Constable's Office receives the violation report, the property owner is visited to discuss the violation. If there is still no corrective action taken, a summons is issued. If a Conditional Use, Change of Zone or variance application is denied, the violator is told to cease operations or they will be taken to court.

Mr. Stickels reported that in 1992 a Public Hearing was held on a Proposed Ordinance prohibiting applications to be accepted by the County Council for a conditional use or change of zone if, at the time of the application, the applicant had been cited for a violation and had not taken the necessary action to bring the property into compliance. The Proposed Ordinance did not have the support of Council.

Mr. Cole expressed his opposition to the fact that violators can continue to do business if they have a change of zone/conditional use/variance application pending.

Mr. Rickard and Mr. Parker expressed their opinion that the County's current policy is an improvement over the policy followed in 1992 and is effective in handling violations. It was the consensus of Council that the current policy is adequate and no further policy/ordinance is required.

Adminis-
trator's
Report

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

1. R. R. Bayside, Inc., R.R. Seaside, Inc., R.R. Rehoboth, Inc., and Rehoboth Mall Limited Partnership v. Sussex County Council and Sussex County Engineer

Plaintiffs, R.R. Bayside, Inc., R.R. Seaside, Inc., R.R. Rehoboth, Inc., and Rehoboth Mall Limited Partnership, filed a Complaint alleging discriminatory treatment by Sussex County against commercial users and in favor of residential users. Specifically, the Plaintiffs challenged the sewer service fees and the formula on which the fees are calculated. The County imposes fees on commercial users within the sewer district based upon the number of Equivalent Dwelling Units (EDUs) attributed to the property. The Plaintiffs challenged the implementation and application of the EDU concept as being arbitrary, contending that it is not directly related to actual consumption.

In his ruling, President Judge Ridgely of the Superior Court of the State of Delaware stated that as long as the classification is reasonable (EDU), the County may classify persons and property differently for taxation. President Judge Ridgely further stated that the County has reasoned "that the assignments based on number of seats or square

Adminis-
trator's
Report
(continued)

footage correspond with the expected number of clients or patrons expected to be serviced by the facility. Likewise, although a residential dwelling may have on the average, more than six fixture units, the extra fixture units generally are for convenience. Whereas the extra units in a commercial establishment can be used simultaneously to produce sewage. This apparent correlation between the number of fixture units, seats, or square footage, with actual use, or production of sewage, in the context of commercial establishments is a rational one." Therefore, he concluded that the EDU method for determining sewer service fees is rationally related to a legitimate governmental objective and must be upheld.

2. Sussex County Volunteer Firemen's Association Monthly Meeting

Blades Volunteer Fire Company will host the monthly Sussex County Volunteer Firemen's Association meeting at the Blades Fire Hall on Tuesday, July 27, 1999, starting at 7:30 p.m. During that meeting the County Council will distribute checks to the volunteer fire companies for the last quarter of FY '99 for the Enhanced Building Permit Fund. During the first five months of this program, Sussex County volunteer fire companies have benefited from the collection of \$314,582.

3. Route 26 Working Group

The Department of Transportation invites residents to become members of the Route 26 Improvement Project Construction Working Group. The Working Group is comprised of local residents, businesspersons, and elected officials. The Group is to work with DelDOT and contractor personnel to ensure the most efficient and least disruptive construction process possible. The Working Group will meet once a month at DiFebo's Restaurant, 789 Garfield Parkway, Bethany Beach, at 10:00 a.m. The first meeting is scheduled for Thursday, August 5, 1999. Anyone wishing to become a member should contact Anne Gitney at 1-800-652-5600.

4. Mary A. S. Lighthipe

It is with sadness that I inform the Council of the passing of Mary A. Short Lighthipe at her home on Wednesday, July 21, 1999, at the age of 82. In October of 1990, Mrs. Lighthipe donated 25.6 acres of land to the County on Route 1 and Route 360 to be preserved for natural and open space. In April of 1992, Mrs. Lighthipe donated the property known as the James Farm, containing 148.2 acres, to the County. This donation had an appraisal value of \$1.6 million. Currently, a portion of this property is used as a training and educational site for the Center for Inland Bays.

Adminis-
trator's
Report
(continued)

Many individuals and organizations have benefited over the years from Mrs. Lighthipe's generosity.

5. Line of Credit – Wilmington Trust Company

Notice was received from the Wilmington Trust Company that they have reconfirmed the County Council's line of credit for the coming year for a maximum amount of \$25,000,000. The terms of the loan will remain the same as during the previous year. The interest rate shall be tax-exempt and shall be at a rate of 64 percent of prime for "bank qualified amounts". The rate for "nonbank qualified amounts" shall be at 77 percent of the Wilmington Trust prime rate.

Security
Guard
Services/
Bid
Results

Mr. Baker summarized the bids that were reported to Council on July 20, 1999, for "Security Guard Services" at the Industrial Airpark. Bids were received from Bennett Security and Colonial Security. Bennett Security currently provides this service to the County; however, the contract expires in August, 1999. Mr. Baker recommended that the bid be awarded to Bennett Security with total projected costs in the amount of \$68,298.50. The amount budgeted for this service is \$75,000.

M 371 99
Approve
Bid
Award/
Security
Guard
Services

A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the Sussex County Council approves an Agreement with Bennett Security Services for security guard services from August 1, 1999 to August 1, 2000, subject to the approval of the County Attorney and the County's Internal Auditor.

Motion Adopted: 5 Yea.

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

Regional
Pump
Station at
Ocean
View/
Bid
Results

Mr. Izzo, County Engineer, reviewed bid awards for Sussex County Project No. 99-11, Regional Pump Station at Ocean View, as follows:

<u>CONTRACTOR</u>	<u>BID SCHEDULE A</u>	<u>BID SCHEDULE B</u>	<u>BID SCHEDULE C</u>
Hopkins Construction	\$2,209,110	\$2,159,110	\$2,139,110
L.A. Merrell	\$2,326,730	\$2,210,230	\$2,233,730
Corman Construction	\$2,492,170	\$2,406,500	\$2,409,170
George & Lynch	\$2,732,300	\$2,640,300	\$2,657,300
Kuhn Construction Co.	\$2,838,760	\$2,795,230	\$2,795,760
Engineer's Estimate	\$2,271,465	\$2,160,465	\$2,101,465

Regional
Pump
Station at
Ocean
View
(continued)

Mr. Izzo advised that this regional pump station will serve the Ocean View, Holts Landing and Cedar Neck sanitary sewer projects. The project was bid in three separate schedules: Schedule A was for a full complete pump station as designed, Schedule B was a pump station without odor control and generator silencing, and Schedule C was for a pump station without a third pump.

Following a review of the bid results, Mr. Izzo recommended that the bid be awarded to Hopkins Construction for Bid Schedule A, in the amount of \$2,209,110.

M 372 99
Award
Bid/
Regional
Pump
Station at
Ocean
View

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP, and the Engineering Department, that Sussex County Project No. 99-11, Regional Pump Station at Ocean View, be awarded to Hopkins Construction, Inc. of Bridgeville, Delaware, at the Schedule "A" bid amount of \$2,209,110.00, contingent upon the receipt of approval from the Department of Natural Resources and Environmental Control.

Motion Adopted: 5 Yea.

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

Bid
Results/
Sewage
Pumping
Station/
Delaware
Seashore
State
Park

Mr. Izzo, County Engineer, reported on bid results for Sussex County Project No. 99-14, Delaware Seashore State Park, Sewage Pumping Station No. 65, as follows:

BIDDER	BASE BID	ALTERNATE	
		BID NO. 1	BID NO. 2
David A. Bramble, Inc.	\$393,082.00	\$379,082.00	\$349,082.00
David G. Horsey & Son.	\$436,255.99	\$412,781.27	\$382,430.39
A.P. Croll & Son, Inc.	\$448,986.90	\$436,036.90	\$418,041.90
Hopkins Construction, Inc.	\$465,150.00	\$460,150.00	\$454,150.00
Bunting & Murray	\$472,616.44	\$464,177.44	\$450,978.44
L.A. Merrell Constr. Co.	\$621,057.39	\$591,687.39	\$548,782.39
George & Lynch	\$634,745.00	\$615,745.00	\$589,745.00

The Engineer's Estimate for this project is \$418,000.00

Sewage Pumping Station/ Delaware Seashore State Park (continued)

Mr. Izzo pointed out that the project was bid in three separate schedules: Bid Alternate No. 2 was for the construction of the pumping station and the force main, Bid Alternate No. 1 considered additional demolition at the treatment plant and the Base Bid considered even further demolition at the treatment plant.

Mr. Izzo explained that the sewer district boundaries have not yet been expanded to include Delaware Seashore State Park and, for this reason, a bid award recommendation will be presented to Council at the time the boundaries have been expanded.

Bid Results/ Emergency Power Generators

Mr. Marvel, Maintenance Division Manager, discussed bid results for Sussex County Project No. 99-08, Emergency Power Generators for Station 74, 81, and Dewey Beach Portable Generator, as follows:

BIDDER	SCHEDULE A WITH TRADE IN EQUIPMENT	SCHEDULE B WITH OUT TRADE IN EQUIPMENT
John W. Tieder, Inc.	\$73,700.00	\$74,700.00
Carey's Diesel, Inc.	\$75,159.00	N/A
Mid County Electric	N/A	\$83,430.00

The Engineer's estimate for this project was \$83,800.00

Mr. Marvel advised that this project represents generator purchases as outlined in the Y2K Implementation Program.

M 373 99 Award Bid/ Emergency Power Generators

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 99-08, entitled "Emergency Power Generators for Station No. 74, 81 and Dewey Beach Portable Generator" be awarded to the low bidder, John W. Tieder, Inc. at the "Schedule A" bid amount of \$73,700.00.

Motion Adopted: 5 Yea.

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

Bid Results

Mr. Sapp, Project Engineer, discussed the bid results that were presented to Council on July 27, 1999, for Sussex County Project No. 98-07, Airport Sewer and Water Installation, as follows:

Bid Results/ Airport Sewer and Water Instal- lation	CONTRACTOR	ALTERNATE		
		BID A	BID B	BID C
	Hopkins Construction	\$366,768.00	\$342,128.00	\$318,128.00
	Bunting & Murray	\$435,491.24	\$410,089.64	\$383,445.64
	George & Lynch	\$494,549.00	\$473,349.00	\$448,849.00
	A. P. Croll	\$498,273.75	\$476,993.75	\$456,665.75
	David G. Horsey & Sons	\$527,630.94	\$500,698.14	\$471,508.86
	Daisey Construction	\$549,733.00	\$525,093.00	\$504,593.00
	Teal Construction	\$562,728.80	\$534,428.80	\$504,728.80
	Bramble Construction	\$566,448.00	\$510,448.00	\$488,184.00
	R.A.M. Construction	\$648,088.00	\$612,228.00	\$589,868.00

The Engineer's estimate for this project was \$470,000.

Mr. Sapp advised that grants in the amount of \$500,000 have been received for this project: \$400,000 from the Delaware Economic Development Office and a grant from Senator Venables' Bond Bill in the amount of \$100,000.

M 374 99
Award
Bid/
Airport
Sewer
and
Water
Instal-
lation

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that on this date, July 27, 1999, the Sussex County Council awarded Sussex County Project No. 98-07, Airport Sewer and Water Installation, to the low bidder, Hopkins Construction, at the Alternate Bid A amount of \$366,768.00.

Motion Adopted: 5 Yea.

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

Oak
Orchard
Sanitary
Sewer
District
Boundaries

Mr. Archut, Assistant County Engineer, discussed the boundaries of the Oak Orchard Sanitary Sewer District. Mr. Archut reported that a Public Hearing was held and public comments were heard; following the Public Hearing, the record was left open for written comments. Petitions were received from Warwick Park, Riverdale, and Gull Point to be excluded from the District; comments in support of being included in the District were received from the

Oak
Orchard
Sanitary
Sewer
District
(continued)

Riverdale Proper/Oak Orchard area, as well as many other waterfront properties. Based on this information, the Engineering Department is recommending that the proposed boundaries of the Oak Orchard Sanitary Sewer District be downsized. A Proposed Resolution delineating the revised proposed boundaries of the Oak Orchard Sanitary Sewer District was presented for Council's consideration; it is the opinion of the Sussex County Engineering Department that the revised boundaries accurately reflect where the need for sewer is the greatest. Mr. Archut recommended that the Proposed Resolution be adopted and a public referendum scheduled.

M 375 99
Adopt
Resolution
No.
R 020 99

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Resolution No. R 020 99 entitled "A RESOLUTION ESTABLISHING THE DISTRICT BOUNDARIES FOR THE PROPOSED OAK ORCHARD 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

Bethany
Beach
Sanitary
Sewer
District
Southampton
Extension

Mr. Archut, Assistant County Engineer, updated the Council on the Bethany Beach Sanitary Sewer District Southampton Extension. A Public Hearing on this Proposed Extension was held on July 20, 1999, at which time the record was left open until the close of business on July 26, 1999, to allow the two property owners of adjacent lands to respond to the County as to their interest in being included in the extension that will encompass Southampton Subdivision and Green Acres Subdivision. Mr. Archut reported that he spoke with one of the property owners and he has not heard from the other property owner; no negative comments were received. Mr. Archut recommended adoption of the Proposed Resolution delineating the boundaries of the proposed extension to the Bethany Beach Sanitary Sewer District.

M 376 99
Adopt
Resolution
No.
R 021 99

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt Resolution No. R 021 99 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE BETHANY BEACH SANITARY SEWER DISTRICT (BBSSD) TO ENCOMPASS A CERTAIN PIECE, PARCEL, OR TRACT OF LAND KNOWN AS SOUTHAMPTON AND GREEN ACRES SUBDIVISIONS AND ADJACENT LANDS, LYING CONTIGUOUS TO THE BBSSD, SITUATE SOUTH OF THE TOWN OF OCEAN VIEW AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE".

Motion Adopted: 5 Yea.

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

C/Z
No. 1381/
Waste
Management
of Delaware,
Inc.

Change of Zone No. 1381 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 40.00 ACRES, MORE OR LESS" filed on behalf of Waste Management of Delaware, Inc. was discussed. A Public Hearing was held on this application on June 29, 1999, at which time action was deferred to await a recommendation from the Planning & Zoning Commission. Since that time, the Planning & Zoning Commission has recommended denial of this application. Mr. Stickels advised Council that, on the same day of this meeting, a letter was received from Mr. Robert Witsil, Attorney for the Applicant, requesting that the application be withdrawn. County Ordinance requires that an application must be withdrawn two working days prior to the meeting date on which an application will be discussed. It was noted that the Planning & Zoning Commission did not make a decision on this application until Thursday evening, July 22, 1999, and the application was placed on the Sussex County Council Agenda and posted on Friday, July 23, 1999. It was suggested that this schedule did not give the applicant very much time to withdraw the application.

M 377 99
Accept
Request to
Withdraw
C/Z No.
1381

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to accept the written request of Waste Management of Delaware, Inc. to withdraw their application for a change of zone (C/Z No. 1381).

Motion Denied: 3 Nay, 2 Yea.

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

M 378 99
Adopt
Proposed
Ordinance
(C/Z
No. 1381)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 40.00 ACRES, MORE OR LESS" (Change of Zone No. 1381) filed on behalf of Waste Management of Delaware, Inc.

Motion Adopted: 4 Nay, 1 Yea.

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

Findings
of Fact

The Council found that the change of zone was not appropriate legislative action due to the concerns expressed by the residents, the inaccuracy of some of

Findings
of Fact
(continued)

the statements made at the Public Hearing, the incompatibility of the requested zoning with the rest of the area, and the poor track record of the applicant's business.

Oak
Orchard
SSD

It was noted that Mr. Wolfgang von Baumgart submitted to Council for consideration a Proposed Resolution entitled "Innovative Wastewater Treatment Technology for the Oak Orchard Sewer District".

M 379 99
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$38.00 from Mr. Phillips' Councilmanic Account to the Millsboro Little League for the purchase of a County flag.

Motion Adopted: 5 Yea.

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

M 380 99
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$100.00 from Mr. Phillips' Councilmanic Account to the Greater Millsboro Chamber of Commerce for the Big Thursday Festival and Car Show.

Motion Adopted: 5 Yea.

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

M 381 99
Purchase
Flags

A Motion was made by Mr. Cole to provide each Councilman with five flags for donation purposes. The Motion died for the lack of a second. There was no consensus among Council members to pursue this matter.

Sheriff's
Activities

Mr. Dukes advised Council of a program called Senior Safe Night Out that is being initiated by the Sheriff. Mr. Dukes and Mr. Stickels expressed concern that prior approval from the Council was not received, nor was the courtesy extended of providing notification to the Council. Other concerns expressed related to potential liability issues surrounding the event. Additional comments were made as to other actions of the Sheriff that, in Council's opinion, broadens his spectrum of responsibility without prior approval. An opinion has been solicited from the Attorney General's Office as to the duties/responsibilities/limitations of the Office of the Sheriff.

M 382 99
Council-
manic
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$500.00 from Mr. Dukes' Councilmanic Account to the Delaware State Police for the 1999 National Nite Out event to be hosted by the Delaware State Police and the Seaford Police Department.

Motion Adopted: 5 Yea.

M 382 99
(continued)

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

Capitation
Tax

Mr. Dan Kramer addressed Council regarding Sussex County's Capitation Tax. Mr. Kramer questioned why everyone does not receive a bill for this tax. He expressed his opinion that everyone should be charged or it should be eliminated. Mr. Stickels and Mr. Baker acknowledged that the Capitation Tax is one of the hardest taxes to assess and collect.

M 383 99
Eliminate
Capitation
Tax

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to eliminate the Capitation Tax beginning with the FY 2001 Budget.

Motion Denied: 3 Nay, 2 Yea.

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

Oak
Orchard
SSD

Mr. Wolfgang von Baumgart addressed Council regarding the Proposed Resolution relating to the Oak Orchard Sanitary Sewer District that he previously submitted to Council.

M 384 99
Recess

At 12:25 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

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

Public
Hearing
(C/U
No. 1291)

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 RECREATIONAL MAZE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 88.46 ACRES, MORE OR LESS" (Conditional Use No. 1291) filed on behalf of Roland D. Pepper. The Planning & Zoning Commission recommended approval of this application on July 8, 1999. There were no public comments and the Public Hearing was closed.

M 385 99
Adopt
Ordinance
No. 1329
(C/U
No. 1291)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1329 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 88.46 ACRES, MORE OR LESS" (Conditional Use No. 1291) filed on behalf of Roland D. Pepper, with the following conditions:

M 385 99
(continued)

1. The site plan shall be subject to review and approval by the Planning & Zoning Commission.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, 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 is consistent with the purposes and goals of the Comprehensive Land Use Plan and will have no adverse impact of any sort
2. The use will promote the agricultural industry and the public's understanding and appreciation of the importance of agriculture.
3. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1292)

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 RETAIL SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 35,988 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1292) filed on behalf of Roland V. Fleetwood. The Planning & Zoning Commission recommended approval of this application on July 8, 1999. There were no public comments and the Public Hearing was closed.

M 386 99
Adopt
Ordinance
No. 1330
(C/U
No. 1292)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1330 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 35,988 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1292) filed on behalf of Roland V. Fleetwood, with the following conditions:

1. Business hours shall be from 9:00 a.m. to 5:00 p.m., six days per week with no Sunday hours.
2. One (1) unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.

M 386 99
(continued)

3. The site plan shall be subject to review and approval by the Planning & Zoning Commission upon receipt of all appropriate agency approvals.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, 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 have no adverse impact of any sort, DelDOT's comments notwithstanding. The proposed use is low traffic, low impact, and will permit the development of an older property in poor condition, consistent with the purposes and goals of the Comprehensive Land Use Plan.
2. The recommendations and findings of fact of the Planning & Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1293)

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 EXPANSION OF CONDITIONAL USE NO. 1007 FOR THE SALE OF CRAFTS AND SIMILAR ITEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.93 ACRES, MORE OR LESS" (Conditional Use No. 1293) filed on behalf of Hugh and Tina McBride. The Planning & Zoning Commission recommended approval of this application on July 8, 1999. Public comments were heard in support of the application; there were no comments in opposition to the application. The Public Hearing was closed.

M 387 99
Adopt
Ordinance
No. 1331
(C/U
No. 1293)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1331 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXPANSION OF CONDITIONAL USE NO. 1007 FOR THE SALE OF CRAFTS AND SIMILAR ITEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.93 ACRES, MORE OR LESS" (Conditional Use No. 1293) filed on behalf of Hugh and Tina McBride, with the following conditions:

1. A twenty-foot wide non-disturbed buffer be retained along the rear property line.

M 387 99
(continued)

2. One lighted ground sign, not exceeding 32 square feet per side or facing, shall be permitted.
3. The site plan shall be required to be reviewed and approved by the Planning & Zoning Commission.
4. The original stipulation “The applicant shall conform to all statements made by the applicant or their representative during the public hearing” shall be deleted.
5. Business hours, open to the public, shall be from 9:00 a.m. to 9:00 p.m., Monday through Saturday with Sunday hours from 12:00 Noon through 9:00 p.m.
6. An apartment shall be permitted above the 1,280 square foot addition (to replace the original apartment proposed with Conditional Use No. 1007).
7. No outside storage of refuse, trash, or waste shall be permitted except in an approved dumpster location. The dumpster location shall be subject to the site plan review and approval referenced in Stipulation No. 3 above.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, 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 is necessary to enable a successful retail business to continue to grow, while based on the site plan, protecting neighbors from any possible adverse impact. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
2. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1294)

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 AN APARTMENT OVER A GOLF PRO-SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED,

Public
Hearing
(continued)

SUSSEX COUNTY, CONTAINING 47.72 ACRES, MORE OR LESS” (Conditional Use No. 1294) filed on behalf of Don Derrickson. The Planning & Zoning Commission recommended approval of this application on July 8, 1999. There were no public comments and the Public Hearing was closed.

M 388 99
Adopt
Ordinance
No. 1332
(C/U
No. 1294)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1332 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN APARTMENT OVER A GOLF PRO-SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 47.72 ACRES, MORE OR LESS” (Conditional Use No. 1294) filed on behalf of Don Derrickson, with the following condition:

1. The applicant will make arrangements with the Sussex County Engineer to connect to the West Rehoboth 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

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 is a necessary and appropriate adjunct to a public golf course, consistent with the purposes and goals of the Comprehensive Land Use Plan.
2. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Public
Hearing
(C/Z
No. 1384)

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 28,600 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1384) filed on behalf of Vernon R. Mullins and Bobbie J. Mullins. The Planning & Zoning Commission recommended approval of this application on July 8, 1999. There were no public comments and the Public Hearing was closed.

M 389 99
Adopt
Ordinance
No. 1333

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1333 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

M 389 99
(continued)

DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 28,600 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1384) filed on behalf of Vernon R. Mullins and Bobbie J. Mullins.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
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 applicant established by substantial evidence that the change of zone is consistent with the character and trend of development in the immediate area. In fact, the property has B-1 properties adjoining to the east and west and a campground to the north.
2. The change of zone is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 390 99
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 2:35 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council