

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 31, 2001

Call to
Order

The regular meeting of the Sussex County Council was held Tuesday, July 31, 2001, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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 423 01
Amend
and
Approve
Agenda

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to amend the agenda by moving "Grant Requests" to the end of the morning agenda and to approve the agenda, as amended.

Motion Adopted: 4 Yea, 1 Absent.

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

M 424 01
Approve
Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the minutes of July 24, 2001, as distributed.

Motion Adopted: 4 Yea, 1 Absent.

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

Appeal/
Decision
of the
Planning &
Zoning
Commission

Mr. Stickels presented for Council's consideration an appeal to the Sussex County Planning and Zoning Commission's decision to deny an application of Gary Watson for the subdivision of land in an AR-1 Agricultural Residential District in Broad Creek Hundred, by dividing 41.86 acres into 37 lots, located north of Road 465, 2,340 feet west of Road 479 (Subdivision Application No. 2001-7 - Silverbell Estates). It was the consensus of Council that a Public Hearing be scheduled.

Mr. Stickels presented a Proposed Lease Agreement between Habitat for Humanity and Sussex County for the leasing of a parcel of land containing 40,000 square feet at the site of the former County transfer station in Angola. The term of the lease is for five years, with two five-year options of renewal. The lease authorizes the tenant to construct a warehouse upon the premises.

M 425 01
Execute
Lease
Agreement
with
Habitat
for
Humanity

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to authorize the President of the Sussex County Council to execute a Lease Agreement between Sussex County and Habitat for Humanity, contingent on approval from the Department of Natural Resources and Environmental Control.

Motion Adopted: 4 Yea, 1 Absent.

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

Adminis-
trator's
Report

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

1. Public Workshop

The Delaware Department of Transportation is holding a public workshop to present facts and solicit public comments regarding the preferred alternative for the widening of SR1 from SR24 to Five Points. The meeting will be held on Tuesday, August 14, 2001, at The Plantations Community Clubhouse, 1600 Pennsylvania Avenue, Lewes, Delaware. The public is invited to attend any time between 4:00 and 8:00 p.m. For further information, contact the Office of External Affairs at 1-800-652-5600.

2. Specialized Transportation Fund – FY '01

Please be advised that I have approved the request of Sussex County Senior Services to transfer \$11,500 from Insurance as follows: \$6,500 to Fuel, \$4,100 to Vehicle Maintenance, and \$900 to Overhead. As is County policy, I am authorized to do transfers between program accounts as long as the total award has not been exceeded.

3. Public Information Meeting

The Delaware Department of Transportation (DelDOT) is hosting a public information meeting regarding the DelDOT/Sussex County State Route 1 Land Use and Transportation Study. The meeting will be held on Wednesday, August 15, 2001, in the cafeteria of Cape Henlopen High School, 1250 Kings Highway, Lewes, Delaware, between 4:30 and 7:30 p.m. DelDOT staff will provide a presentation at 6:00 p.m. Anyone desiring additional information can contact the DelDOT Office of External Affairs at 1-800-652-5600.

C/U
No. 1401

Conditional Use No. 1401 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.61 ACRES, MORE OR LESS" filed on behalf of Randy Burton was discussed.

C/U
No. 1401
(continued)

The Planning and Zoning Commission held a Public Hearing on this application on May 17, 2001; on May 24, 2001 they recommended that the application be denied since Bay Road is a narrow road and parking occurs on both sides of the road; since the majority of homes in the immediate area are single family dwellings; and since the use would be out of character with the neighborhood.

The Sussex County Council held a Public Hearing on this application on June 19, 2001 at which time it was the consensus of Council to leave the record open and to direct Mr. Abbott, Assistant Director of Planning and Zoning, to submit copies of the revised site plan to the Planning and Zoning Commission; to ask the Commission to put the application back on the agenda as a matter of other business; to solicit comments from the Commission with respect to the plan and report back to Council with their findings/recommendation; and to have staff review the plan and report back to Council with their comments. In addition, it was the consensus of Council that the neighbors be permitted to review the revised plan and to submit comments, in writing, to the Sussex County Council. The Public Hearing record remained open until the close of business (4:30 p.m.) on Monday, July 16, 2001.

It was the opinion of Mr. Schrader, Assistant County Attorney, that there may be a procedural problem; that the Commission's Public Hearing record was closed; that the Commission made a decision based on the record of the Public Hearing; that the Commission would not have the benefit of comments from residents in the area or agencies on the revised plan; and that since the Commission recommended denial of the application, they should not comment on the application unless another Public Hearing is held.

On July 24, 2001 the Sussex County Council discussed the application again and recommended that action be deferred to allow time for staff to develop proposed stipulations.

Mr. Lank, Director of Planning and Zoning, presented eight proposed stipulations.

M 426 01
Adopt
Ordinance
No. 1482
(C/U
No. 1401)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1482 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.61 ACRES, MORE OR LESS" (Conditional Use No. 1401) filed on behalf of Randy Burton, with the following conditions:

1. The maximum number of single family detached dwellings shall not exceed seven (7).
2. A single family detached dwelling, in compliance with the Sussex County Building Code, shall be no closer than 20-feet to another single family detached dwelling within the project.

M 426 01
(continued)

3. The project shall be served by the Dewey Beach Sanitary Sewer District.
4. The project shall be served by the Dewey Beach Water District.
5. A minimum of three (3) parking spaces shall be provided for each unit.
6. No site preparation, site disturbance, excavation, or other construction shall commence until all appropriate agency approvals and/or permits have been received.
7. Stormwater management and erosion and sedimentation control shall equal or exceed all applicable State and County regulations.
8. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

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

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 proposed use, as modified by the conditions imposed, will be consistent with the Comprehensive Land Use Plan and consistent with the character of the neighborhood, without adverse impact of any sort.
2. The record of the Planning and Zoning Commission is incorporated herein.

Appeal/
Sussex
Ventures/
Country
Meadows

Council discussed the appeal of Subdivision Application No. 2001-2, Sussex Ventures, Inc., an application to consider the subdivision of land in an AR-1 Agricultural Residential District in Indian River Hundred, by dividing 82.61 acres into 71 lots, located south of Road 297, 2,930 feet west of Route 39. On April 5, 2001, the Planning and Zoning Commission voted to deny the subdivision application, citing concerns about the preservation and conservation of farmland, length of the interior street, and the fact that there is only one entrance into the proposed subdivision. On July 10, 2001, the Sussex County Council held a Public Hearing on this appeal; at the conclusion of the Public Hearing, it was the consensus of Council that the attorney for the appellant and the attorney representing the opponents present Council with memoranda and any other documentation in support of their respective positions within fifteen days of July 10, 2001, after which time the record would be closed.

Mr. Bayard reported that information was received from Mr. Sergovic, attorney for the appellant, on July 25, 2001. Information from Mr. Weidman, attorney for the opponents, was received on July 30, 2001, after the close of the Public Hearing

Appeal
(continued)

record. Mr. Bayard advised that the information received from Mr. Weidman would not be made a part of the record because it was submitted late and the information should not form any basis in Council's decision.

Mr. Bayard discussed the reasons why the Planning and Zoning Commission denied the preliminary subdivision application:

1. The single entrance to the proposed subdivision.
2. The length of interior roads.
3. Loss of farmland.

Mr. Bayard commented that the entrance is exclusively controlled by DelDOT; that the length of the interior roads is a function of what DelDOT has designed by way of an entrance; and that the interior roads could be redesigned during the site review process. Mr. Bayard further commented that the site is located in an Agricultural Residential District.

Mr. Bayard recommended, based on the record, that the Sussex County Council either uphold or reverse the decision of the Planning and Zoning Commission.

Mr. Bayard clarified that should Council decide to reverse the decision, the decision of the Commission would be nullified and the applicant would be permitted to modify the application and resubmit it.

M 427 01
Uphold
Decision
of P & Z
Commission/
Sussex
Ventures/
Country
Meadows
Subdivision

A Motion was made by Mr. Phillips that the decision of the Planning and Zoning Commission to deny preliminary subdivision approval for Country Meadows be upheld based on Items No. 4 (Preservation of Open Space and Scenic Views), 11 (Provision for Safe Vehicular and Pedestrian Movement), 13 (Preservation and Conservation of Farmland), 15 (Effect on Area Roadways and Public Transportation), of Ordinance 99-9(c) as created in Ordinance No. 1152; Council also suggests that in future cases, the Commission specifically references County Ordinance No. 99-9(c) in making subdivision decisions.

The Motion died for the lack of a second.

M 428 01
Reverse
Decision
of P & Z
Commission/
Sussex
Ventures/
Country
Meadows
Subdivision

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the decision of the Planning and Zoning Commission to deny preliminary subdivision approval for Country Meadows be reversed because the Planning and Zoning Commission failed to state significant reasons to justify denial; Council suggests that in the future, the Commission references County Ordinance No. 99-9(c) in making subdivision decisions.

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

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

Indian River High School/ Dagsboro-Frankford Sanitary Sewer District Boundary Extension

Mr. Archut discussed the Indian River High School's request for sanitary sewer service and connection to the Dagsboro - Frankford Sanitary Sewer District. Mr. Archut advised that this is a two-step process: (1) the Indian River School District Board of Education has been asked to execute a Memorandum of Understanding with the County, and (2) the County Engineering Department must post notices and hold a Public Hearing for annexation. Mr. Archut further advised that the property in question is approximately 156 acres; that the property is adjacent to the existing boundaries of the District; and that capacity is available.

Mr. Archut reviewed the Memorandum of Understanding and noted that it obligates the school district to (1) oversize some of their facilities to serve adjacent areas, (2) to turn those facilities over to the County to operate, (3) provides for a perpetual easement for the County to operate and maintain the facilities, and (4) requires the School to pay all the necessary permit fees, one-time system connection charges, front foot assessments, and quarterly service charges. The Memorandum of Understanding obligates the County to operate and maintain the portion of the facilities that is jointly used, once the system is completed and constructed to the County's specifications.

M 429 01 Execute MOU/ Indian River School District

A Motion was made by Mr. Phillips, seconded by Mr. Cole, that the Sussex County Council President is hereby authorized to execute a Memorandum of Understanding with the Indian River School District Board of Education to provide wastewater transmission and treatment services for the new Indian River High School, as presented on July 31, 2001.

Motion Adopted: 4 Yea, 1 Absent.

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

M 430 01 Prepare and Post Notices/ Indian River High School/ DFSSD Extension

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Dagsboro – Frankford Sanitary Sewer District boundary to include the new Indian River High School, as presented on July 31, 2001.

Motion Adopted: 4 Yea, 1 Absent.

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

Waste-water Facilities

Mr. Green, Director of Utility Construction, discussed wastewater facilities to be constructed in the Ocean View Sanitary Sewer District, the Bethany Beach Sanitary Sewer District, and the West Rehoboth Sanitary Sewer District.

M 431 01 Gulfstream Development

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 213, that the Sussex County Council execute a

M 431 01 Construction Administration and Construction Inspection Agreement between
Execute Sussex County Council and Gulfstream Development Corporation, for wastewater
Agreements/
Gulfstream facilities to be constructed in Wedgefield, RPC (offsite), located in the Ocean View
Development Sanitary Sewer District.

Corporation Motion Adopted: 4 Yea, 1 Absent.
(continued)

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

M 432 01 A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the
Execute recommendation of the Sussex County Engineering Department, for Sussex County
Agreements/
South Project No. 81-04, Agreement No. 234, that the Sussex County Council executes a
Hampton Construction Administration and Construction Inspection Agreement between
Phase IV Sussex County Council and Gulfstream Development Corporation for wastewater
 facilities to be constructed in South Hampton, Phase IV, located in the Bethany
 Beach Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

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

M 433 01 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the
Execute recommendation of the Sussex County Engineering Department, for Sussex County
Agreements/
The Project No. 81-04, Agreement No. 236, that the Sussex County Council execute a
Villages Construction Administration and Construction Inspection Agreement between
of Old Sussex County Council and Atlantic Land Company, L.L.C., for wastewater
Landing, facilities to be constructed in The Villages of Old Landing, Section II, Phase II,
L.L.C. located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

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

M 434 01 A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the
Execute recommendation of the Sussex County Engineering Department, for Sussex County
Agreements/
Abraham Project No. 81-04, Agreement No. 216, that the Sussex County Council execute a
Korotki Construction Administration and Construction Inspection Agreement between
 Sussex County Council and Abraham Korotki for wastewater facilities to be
 constructed in The Reserves, located in the Ocean View Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

M 434 01
(continued)

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

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 AN ATHLETIC FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 95 ACRES, MORE OR LESS" (Conditional Use No. 1421) filed on behalf of Wallace P. Townsend, Jr. The Proposed Ordinance will be advertised for Public Hearing.

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 ADDITIONAL MOTEL USES (PARKING, WASTEWATER, EXPANSION, ETC.) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.3437 ACRES, MORE OR LESS" (Conditional Use No. 1422) filed on behalf of Donald D'Aquila. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PARKING FOR TEN (10) MOBILE CAMPERS/RV TRAILERS AS AN EXPANSION TO CONDITIONAL USE NO. 869 (EXPANSION OF EXISTING AIRPORT FACILITY) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 52 ACRES, MORE OR LESS" (Conditional Use No. 1423) filed on behalf of Skydive Delmarva, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RETAIL SALES OF LANDSCAPING SUPPLIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.5531 ACRES, MORE OR LESS" (Conditional Use No. 1424) filed on behalf of L. Thomas Harmon. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance

Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1/RPC AGRICULTURAL RESIDENTIAL DISTRICT/RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 133.28 ACRES, MORE OR LESS" (Change of Zone No. 1450) filed on behalf of Beaver Creek, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

TDR
Program

Mr. Phillips asked for a consensus of the Council to direct the TDR Committee to look at the specifics of a TDR Program on the western side of Sussex County and to report back to Council. Mr. Cole suggested that the same request be sent to the Land Use Advisory Committee. It was the consensus of Council to forward the request to the TDR Committee and the Land Use Advisory Committee. Mr. Stickels referred to pending legislation that will require each County to establish a TDR Program. Mr. Stickels also noted that the TDR Concept will be included in the upcoming revision of the Land Use Plan.

Mr. Rogers requested that Mr. Dick Cecil, Executive Director of the Delaware Association of Counties, obtain information for Council from NACo Committees regarding the TDR concept.

Mr. Cole requested a copy of the proposed legislation regarding the TDR Program.

M 435 01
Youth
Activity
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,250.00, \$250.00 from each Youth Activity Grant Account, to the Boys Scouts of America for program expenses.

Motion Adopted: 4 Yea, 1 Absent.

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

M 436 01
Youth
Activity
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$740.00, \$185.00 each from Mr. Cole's, Mr. Jones', Mr. Phillips', and Mr. Rogers' Youth Activity Grant Accounts, to Sussex Central Pop Warner Football for the construction of a new ball field.

Motion Adopted: 4 Yea, 1 Absent.

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

M 437 01
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$650.00 from Mr. Jones' Councilmanic Account to the Bridgeville Apple – Scapple Festival for festival operating expenses.

Motion Adopted: 4 Yea, 1 Absent.

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

M 438 01
Council-
manic

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$250.00 from Mr. Phillips' Councilmanic Account to the Oak Orchard Riverdale Civic Association for the Civic Celebration and Parade.

M 438 01
Council-
manic
Grant
(continued)

Motion Adopted: 4 Yea, 1 Absent.

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

Tabled

The funding request from the Delaware Devils was tabled.

M 439 01
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$50.00 from Mr. Phillips' Councilmanic Account to the Indian River Volunteer Fire Company, Inc. for their Basket Bingo Fundraiser.

Motion Adopted: 4 Yea, 1 Absent.

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

M 440 01
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$200.00, \$50.00 each from Mr. Dukes', Mr. Jones', Mr. Phillips', and Mr. Rogers' Youth Activity Grant Accounts, to the University of Delaware Cooperation Extension (Kent County Extension) for Prevention Day at the Delaware State Fair Grounds. (It was noted that this is a Kent County and Sussex County program.)

Motion Adopted: 4 Yea, 1 Absent.

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

Tabled

The funding request from River of Life Christian Center was tabled.

M 441 01
Youth
Activity
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$200.00 from Mr. Rogers' Youth Activity Grant Account to the H. O. Brittingham Elementary School Parent Teacher Organization (HOB/PTO) for the *PARTNERS* Program.

Motion Adopted: 4 Yea, 1 Absent.

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

M 442 01
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$100.00 from Mr. Jones' Councilmanic Account to the Georgetown Historical Society for the 3rd Annual Civil War Living History Weekend.

Motion Adopted: 4 Yea, 1 Absent.

M 442 01
(continued)

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

M 443 01
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$400.00 from Mr. Rogers' Councilmanic Account to the Milton Development Corporation for the Milton Theater Restoration Project.

Motion Adopted: 4 Yea, 1 Absent.

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

M 444 01
Youth
Activity
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$100.00, \$25.00 each from Mr. Dukes', Mr. Jones', Mr. Phillips', and Mr. Rogers' Youth Activity Grant Accounts, to Midshore Girls Softball for a team banner for the NSA World Series.

Motion Adopted: 4 Yea, 1 Absent.

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

M 445 01
Council-
manic
Grant
(Withdrawn)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$4,000.00 from Mr. Jones' Councilmanic Account to the Town of Bridgeville for repairs and renovations to Town Hall.

Mr. Cole and Mr. Rogers withdrew their Motions.

M 446 01
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00 from Mr. Jones' Councilmanic Account to the Town of Bridgeville for repairs and renovations to Town Hall.

Motion Adopted: 4 Yea, 1 Absent.

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

M 447 01
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$500.00 from Mr. Dukes' Councilmanic Account to the Seaford Police Department for Seaford's Annual National Night Out Against Crime and Drugs.

Motion Adopted: 4 Yea, 1 Absent.

M 447 01
(continued)

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

Dumpsters

Mr. Cole commented on the number of complaints he receives regarding the placement of dumpsters.

Citizen's
Comments

Mr. Dan Kramer addressed Council and questioned why the grant requests were moved to the end of the agenda; questioned whether Council is ashamed of the program; and stated that if they are ashamed, then they should get rid of it.

M 448 01
(Withdrawn)

A Motion was made by Mr. Phillips to get rid of the program. The Motion died for the lack of a second.

M 449 01
Recess

At 11:22 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Cole, 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. 1410)

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 TO SELL FURNITURE, ANTIQUES, PRODUCE, AND MISCELLANEOUS UNIQUE ITEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS" (Conditional Use No. 1410) filed on behalf of Jay R. Donovan.

The Planning and Zoning Commission held a Public Hearing on this application on July 12, 2001 at which time they deferred action; on July 26, 2001 the Commission recommended that the application be denied for the following reasons: that the application was somewhat broad and very vague; that they were concerned about the location of the site due to the curve on Route 36; that the site would appear to have a flea market atmosphere; and that they were concerned that people would park along the right-of-way of Route 36.

Mr. Jay Donovan was present on behalf of his application. He discussed the merchandise he proposes to sell and stated that all merchandise will be under roof; that portable toilets are proposed; that he proposes to fix up the barn and property; that he proposes to sell produce which will be displayed in the area of the barn with no existing doors; and that he does not feel safety concerns relating to the curve on Route 36 are an issue.

Mr. Donovan submitted letters from area residents in support of the application.

Public comments were heard in support of and in opposition to the application.

Public comments in favor of the application referred to the character and work ethic of the applicant.

Public
Hearing
(C/U
No. 1410)
(continued)

Public comments in opposition to the application referred to concerns relating to the appearance of a flea market; the possible negative impact on the neighborhood and the Delaware Nature Society properties; safety concerns along Route 36; and the fact that the use is not compatible with the area.

The Public Hearing was closed.

Councilmembers expressed that they would like to defer action to give Mr. Dukes the opportunity to listen to the proceedings of the Public Hearing after which time he can participate in the vote on the application.

M 450 01
Defer
Action on
C/U
No. 1410

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO SELL FURNITURE, ANTIQUES, PRODUCE, AND MISCELLANEOUS UNIQUE ITEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS" (Conditional Use No. 1410) filed on behalf of Jay R. Donovan.

Motion Adopted: 4 Yea, 1 Absent.

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

Public
Hearing
(C/U
No. 1411)

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 AUTO RECYCLE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 20.61 ACRES, MORE OR LESS" (Conditional Use No. 1411) filed on behalf of Auto Parts of Greenwood.

The Planning and Zoning Commission held a Public Hearing on this application on July 12, 2001 at which time they recommended approval with stipulations.

Mr. Joe Johnson was present on behalf of his application and discussed his plans for an auto recycling business and the construction of a building for storage, dismantling, and office space. He stated that all dismantling will be performed inside the building; that the site has been used as an auto salvage yard for over 40 years; and that the property has been cleared.

There were no public comments and the Public Hearing was closed.

M 451 01
Adopt
Ordinance
No. 1483

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1483 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO RECYCLE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF

M 451 01
Adopt
Ordinance
No. 1483
(C/U
No. 1411)
(continued)

LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 20.61 ACRES, MORE OR LESS” (Conditional Use No. 1411) filed on behalf of Auto Parts of Greenwood, with the following stipulations:

1. Business hours shall be from 8:00 a.m. to 5:00 p.m. Monday through Friday and 8:00 a.m. to 12:00 noon on Saturday, with no Sunday hours.
2. An 8-foot high solid fencing shall be provided at the 40-foot front yard setback requirement or in line with the front of the proposed building.
3. This approval is for the sales of parts; any sales of automotive vehicles shall be by salvage certificates.
4. All exterior lighting shall be directed into the property and away from Road 589.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

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

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 serve the convenience of the community and the surrounding area, consistent with the Comprehensive Land Use Plan, and with the conditions imposed, will have no adverse impact of any sort.
2. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Public
Hearing
(C/Z
No. 1437)

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 22,500 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1437) filed on behalf of Edward S. and Nancy C. Machulski.

The Planning and Zoning Commission held a Public Hearing on this application on July 12, 2001 at which time they recommended approval.

Edward and Nancy Machulski were present on behalf of their application. They stated that the site has previously been utilized for several business uses; that they

Public Hearing (continued)

intend to clear the parcel and construct a building for the preparation of chicken and seafood for a carry-out business; that they propose to install a stone parking lot; and that the site is in close proximity to other commercial uses.

M 452 01 Adopt Ordinance No. 1484 (C/Z No. 1437)

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1484 "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 22,500 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1437) filed on behalf of Edward S. and Nancy C. Machulski.

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

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

Findings of Fact

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

1. The applicant established by substantial evidence that the site has a long history of neighborhood business uses, is located in a Development District, and is located in an area where development is trending toward commercial and not residential. Its present zoning classification, does not permit conditional use permit applications.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Rogers/ Absence

Mr. Rogers left the meeting due to a possible conflict of interest with the last two zoning applications.

Public Hearing (C/Z No. 1438 and C/Z No. 1439)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.51 ACRES, MORE OR LESS" (Change of Zone No. 1438) filed on behalf of Walter Wilson and the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.49 ACRES, MORE OR LESS" (Change of Zone No. 1439) filed on behalf of Walter Wilson.

Public
Hearing
(C/Z
No. 1438
and C/Z
No. 1439)
(continued)

Mr. Walter Wilson, applicant, and Mr. Mark Davidson of Design Consultants Group were present on behalf of the application. Mr. Davidson stated that the adjacent land south of these parcels is currently zoned C-1; that there are no wetlands located on the parcels; that the parcels are not in a flood zone; that all traffic will enter off of Red Fox Lane; that no entrance for the parcels will be permitted along Route One as per the existing approval and subdivision plan for Red Fox Run. Mr. Wilson discussed the uses that are planned for the two parcels of land and stated that the back parcels (which are not a part of these applications) are being developed into an upper-scale residential community (Red Fox Run). Mr. Wilson stated that he proposes office space and possibly a medical building, as residential dwellings/units are not desirable along Route One. Mr. Wilson further stated that the entrance restricts him from doing anything which would generate a very high volume of traffic. Mr. Wilson noted that he wants to get the rezoning done prior to selling lots in Red Fox Run so that buyers will be aware that the front lots will be commercially zoned.

There were no public comments and the Public Hearing was closed.

Councilmembers expressed that they would like to defer action to give Mr. Dukes the opportunity to listen to the proceedings of the Public Hearing after which time he can participate in the vote on the applications.

M 453 01
Defer
Action
(C/Z
No. 1438
and C/Z
No. 1439)


A Motion was made by Mr. Phillips, seconded by Mr. Cole, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.51 ACRES, MORE OR LESS" (Change of Zone No. 1438) filed on behalf of Walter Wilson and the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.49 ACRES, MORE OR LESS" (Change of Zone No. 1439) filed on behalf of Walter Wilson.

Motion Adopted: 3 Yea, 2 Absent.

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

M 454 01
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to adjourn at 3:05 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council