

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 1, 2000

Call to Order The regular meeting of the Sussex County Council was held Tuesday, August 1, 2000, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Lynn J. Rogers	President
Dale R. Dukes	Vice President
George B. Cole	Member
Finley B. Jones, Jr.	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 375 00 A Motion was made by Mr. Dukes, seconded by Mr. Jones, to amend the Approve Agenda the Agenda to include the following under "Robert L. Stickels, County Administrator": "Request to Withdraw Application for Conditional Use No. 1340 filed on behalf of Robino-Seachase L.L.C."; 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. Jones, Yea;
 Mr. Rogers, Yea

M 376 00 A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to approve Approve Minutes the minutes of the July 25, 2000 meeting, as distributed.

Motion Adopted: 5 Yea.

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

Corre- Mr. Bayard read the following correspondence:
spondence

DIVISION OF SOIL AND WATER CONSERVATION, 89 KINGS
HIGHWAY, DOVER, DELAWARE.
RE: Notice of the Delaware Sediment & Stormwater Conference 2000.

Corre-
spondence
(continued)

LAUREL CHAMBER OF COMMERCE, LAUREL, DELAWARE.
RE: Letter in appreciation of Council's support of the Independence Day
Celebration 2000.

CARLENE JONES, FRANKFORD, DELAWARE.
RE: Letter in appreciation of Council's recognition and Proclamation
proclaiming Sunday, June 11, 2000, as "Carlene Jones Day".

INDIAN RIVER LIONS CLUB, MILLSBORO, DELAWARE.
RE: Letter in appreciation of Councilmanic Grants.

FUQUA AND YORI, P.A., GEORGETOWN, DELAWARE.
RE: Letter requesting that the application for Conditional Use No. 1340
filed on behalf of Robino-Seachase L.L.C. be withdrawn.

M 377 00
Permit
Withdraw
Application
(C/U
No. 1340)

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to permit the
withdraw of the application for Conditional Use No. 1340 filed on behalf
of Robino-Seachase L.L.C.

Motion Adopted: 5 Yea.

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

M 378 00
Authorize
Executive
Session

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to authorize
an Executive Session to be held in the Caucus Room of the Sussex
County Council Chambers, Sussex County Administrative Office
Building, Georgetown, Delaware, for the purpose of discussing
personnel.

Motion Adopted: 5 Yea.

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

M 379 00
Adopt
Procla-
mation

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt the
Proclamation entitled "PROCLAIMING WEDNESDAY, AUGUST 9,
2000, AS 'SUSSEX COUNTY SAFE KIDS DAY'".

Motion Adopted: 5 Yea.

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

M 380 00
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$250.00, \$50.00 from each Councilmanic Account, to Delaware Safe Kids Coalition to sponsor Sussex County Safe Kids Day.

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

1. Water and Waste Operators Association of Maryland, Delaware, and District of Columbia

I am pleased to inform Council that Ms. Kay Dewson has been recognized by the Water and Waste Operators Association of Maryland, Delaware, and District of Columbia for her outstanding efforts and dedication in the field of wastewater treatment. Kay will be recognized at an awards ceremony August 9, 2000, at the Marriott's Hunt Valley Inn located in Hunt Valley, Maryland, for her distinguished service to quality, integrity, and education in the field of wastewater treatment. Kay has been employed with the County since January 1996 and is currently District Manager for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

2. Delaware Department of Transportation (DelDOT) – Long-Term Transportation Committee

The Sussex County Advisory Committee for DelDOT's Long-Term Transportation Plan will be meeting on Wednesday, September 13, 2000. The meeting will take place at the Sussex County West Complex located on North DuPont Highway, Georgetown, Delaware. The meeting will be held from 5:00 to 8:00 p.m. Transportation meetings are open to the public.

Tax
Bill
Status

Mr. Baker, Finance Director, provided an update on the tax bill status. In June of 1999 the State of Delaware approved a Senior Citizen's State Tax Credit for school taxes for residents and a State Education Expense Tax Credit. Since that time, the Treasury Department and Data Processing Department have been busy processing applications, submitting lists to the State for rebates, and answering hundreds of questions. The Data Processing Department has been making the programming changes needed because of the legislation. The tax bills that have just been mailed out reflect tax credits for the State Senior Citizen Program and they also reflect credits for the Indian River School District for the Education Expense Tax Credit Program. There will not be any rebates

Tax
Bill
Status
(continued)

this year because the tax bills have already been reduced to reflect both of these programs.

In June, 2000, the State of Delaware approved legislation allowing school districts additional time to set their school tax rates - until July 14th. Previously, the school districts reported to the County by June 1st. On July 14th, the County received all of the school district's tax rates and began the process of printing and mailing out tax bills. The last of the tax bills were mailed on August 1, 2000; approximately 120,000 bills have been mailed during a ten day period. Approximately \$50 million was billed; of that amount, 79 percent is for school districts.

Mr. Baker, Mr. Stickels, and members of Council personally thanked the staff of the Treasury Department and the Data Processing Department for all of their hard work.

Contract
Amend-
ment/
CABE
Associates/
Oak
Orchard
SSD

Mr. Archut, Assistant County Engineer, discussed an amendment, in the amount of \$465,086.68, to a contract with CABE Associates, Inc. for the completion of design work and an environmental assessment for the Oak Orchard Sanitary Sewer District. Mr. Archut advised that the original contract was for the preliminary planning work to determine estimated costs for the referendum process and to review the needs of the Oak Orchard area as far as a central sewer system is concerned.

Mr. Archut advised that this contract has four parts: additional work associated with the preliminary engineering work originally done because the County had to go to a second referendum; preparation of an environmental assessment; archaeological and historic preservation issues; and the design of the sewer system.

Currently, the County is ready to move forward to the next stage of designing the facilities, bidding the work, and beginning construction.

Mr. Archut informed Council that a separate contract will be negotiated for inspection and contract administration once the construction phase has been reached.

M 381 00
Authorize
Contract
Amendment/
CABE
Associates/
Oak
Orchard
SSD

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the County Engineering Department, that the President of the Sussex County Council be authorized to execute Amendment No. 1 to its contract with CABE Associates, Inc. in the amount of \$465,086.68 to complete an environmental assessment and design for the Oak Orchard Sanitary Sewer District.

Motion Adopted: 5 Yea.

M 381 00
(continued)

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

West
Rehoboth
Expansion/
Postal
Lane
Extension
Request

Mr. Archut reported that a request has been received from Unity Development L.L.C. to extend the boundaries of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District to include the Postal Lane Extension (on file as Grant Estates), a 55 lot subdivision encompassing 42.81 acres. This requested extension is contiguous to the existing boundaries of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. It was noted that in addition to this requested extension, two other property owners in the area have expressed interest in being included in the extension.

M 382 00
Prepare and
Post
Notices/
Postal
Lane
Extension

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Engineering Department is authorized to prepare and post notices for the extension of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District boundaries to include the Postal Lane Extension.

Motion Adopted: 5 Yea.

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

Change
Order/
SCADA
System
Improve-
ments

Mr. Hudson, Director of Maintenance, discussed a closeout change order for the project entitled "SCADA System Improvements – Phase I". Mr. Hudson noted that the Contractor has completed, and in some cases exceeded, the project requirements. Although the change order is a result of a time extension which was necessary to perform software upgrades on the system, there is no cost change associated with the change order.

M 383 00
Authorize
Change
Order/
SCADA
System
Improve-
ments

A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council approves Change Order No. 2 and grants Substantial Completion for Project No. 99-02, SCADA System Improvements – Phase I, to Trijay Systems, Inc., the contractor, effective June 30, 2000.

Motion Adopted: 5 Yea.

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

Proposed
Ordinance

Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A

Proposed Ordinance (continued)

CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 67.775 ACRES, MORE OR LESS” (Conditional Use No. 1356) filed on behalf of William C. Downes. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10,400 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1411) filed on behalf of Illya Waples. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 15.9487 ACRES, MORE OR LESS” (Change of Zone No 1412) filed on behalf of L. A. Williams. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.9314 ACRES, MORE OR LESS” (Change of Zone No. 1413) filed on behalf of L. A. Williams. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 10.14 ACRES, MORE OR LESS” (Change of Zone No. 1414) filed on behalf of Allen T. Handy, Sr. The Proposed Ordinance will be advertised for Public Hearing.

Draft Ordinance

Mr. Stickels advised that Mr. Rogers has requested that a Proposed Ordinance be drafted to amend the Sussex County Code to comply with

Draft Ordinance (continued)

recent State legislation (House Bill No. 551) exempting from realty transfer taxes a transfer of real property between siblings, including half-siblings and step-siblings. The draft ordinance will be presented at the August 8, 2000 Council meeting.

Sheriff's Request to Obtain Raises for Deputies

Sheriff Reed addressed Council regarding his request to obtain pay raises for his deputies. Sheriff Reed asked his Chief Deputy to address Council.

Mr. Stickels requested clarification of comments contained in a Press Release issued by the Sheriff. The Sheriff verified that he is the author of the Press Release and that it is his belief that the contents of the Press Release are factual. Mr. Stickels pointed out two erroneous statements made in the Press Release, as follows: (1) that one of the Executive Sessions was held on July 24, 2000 (Monday) and (2) that his proposal was voted down. The Sheriff acknowledged that the date of one of the Executive Sessions was July 25, 2000 (Tuesday), as advertised, and not July 24, 2000 (Monday) as stated in the Press Release. The Sheriff further acknowledged that no voting took place at the Executive Sessions; that only a consensus was reached. Mr. Stickels noted that these incorrect statements needed to be clarified as they represent two (2) violations of State law.

Chief Deputy Mumford addressed Council regarding his understanding of what has taken place at the Executive Sessions. It was noted that Chief Deputy Mumford was not present at the Executive Sessions.

Chief Deputy Mumford also addressed Council regarding his thoughts: (1) Sussex County's pay scale for Deputy Sheriffs is less than the pay scale for the same positions in Kent and New Castle Counties, (2) the proposed pay scale is needed to maintain the quality of service provided by the Sheriff's Office, (3) the proposed pay scale will increase the professionalism in the Sheriff's Office, (4) the proposed pay scale will increase the retainage of employees, (5) there is a level of potential danger associated with the job that the employees should be compensated for, and (6) the proposed pay scale does not increase the Sheriff's budget for Fiscal 2001.

M 384 00 Recess

At 11:05 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess and go into Executive Session. Motion Adopted by Voice Vote.

Executive Session

An Executive Session of the Sussex County Council was held Tuesday, August 1, 2000, at 11:10 a.m., in the Caucus Room of the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Lynn J. Rogers
Dale R. Dukes

President
Vice President

Executive Session (continued)	George B. Cole Finley B. Jones, Jr. Vance Phillips Robert L. Stickels David Baker Eugene Bayard Dennis Cordrey Robert Stuart	Member Member Member County Administrator Finance Director County Attorney Personnel Director Division Manager, Paramedics
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Conclude Session The Executive Session was held for the purpose of discussing personnel issues. The Executive Session concluded at 11:40 a.m.

Reconvene Council reconvened for the purpose of recessing the regular morning session.

M 385 00 Recess 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. Rogers called Council back into session at 1:35 p.m.

Application Withdrawn Mr. Bayard announced that the application known as Conditional Use No. 1340 filed on behalf of Robino-Seachase L.L.C. had been withdrawn.

**Public Hearing/
C/U No.
1339** 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 RADIO AND TELEVISION ELECTRONIC REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14,400 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1339) filed on behalf of John Mintzer. The Planning and Zoning Commission held a Public Hearing on this application on July 13, 2000, at which time they recommended approval with three stipulations. The record of the Commission was incorporated into the record of this hearing.

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

M 386 00 Adopt Ordinance No. 1385 (C/U No. 1339) A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt Ordinance No. 1385 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RADIO AND TELEVISION ELECTRONIC REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14,400 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1339) filed on behalf of John Mintzer, with the following conditions:

M 386 00
(continued)

1. One unlighted sign, not to exceed 32 square feet per side or facing, may be permitted.
2. Outside storage may be permitted in the existing shed or within a fenced area near the shed. The fencing shall be stockade or solid with a minimum of 6' in height.
3. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, 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, will be consistent with the Comprehensive Land Use Plan, and will redevelop and improve a property with a long history of commercial use.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Mr. Bayard and Mr. Cole did not participate in the next Public Hearing.

Public
Hearing
(C/U
No. 1341)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR 8 MULTI-FAMILY DWELLING UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 26,042 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1341) filed on behalf of Buchanan Builders. The Planning and Zoning Commission held a Public Hearing on this application on July 13, 2000, at which time they recommended approval. The record of the Commission was incorporated into the record of this hearing.

Mr. Stickels questioned how the out-of-court settlement on Green vs. Sussex County affects this request. This settlement pertains to limiting sanitary sewer connections in the North Bethany Sanitary Sewer Expansion District to four (4) Equivalent Dwelling Units per gross acre.

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

M 387 00
Defer
Action on
C/U
No. 1341

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to defer action for one week on Conditional Use No. 1341 to obtain an opinion on the Green vs. Sussex County out-of-court settlement as it pertains to this application.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/Z
No. 1405)

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.00 ACRES, MORE OR LESS" (Change of Zone No. 1405) filed on behalf of Robert D. Ward and Nancy H. Ward. The Planning and Zoning Commission held a Public Hearing on this application on July 13, 2000 at which time they recommended approval. The record of the Commission was incorporated into the record of this hearing.

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

M 388 00
Adopt
Ordinance
No. 1386
(C/Z
No. 1405)

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt Ordinance No. 1386 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.00 ACRES, MORE OR LESS" (Change of Zone No. 1405) filed on behalf of Robert D. Ward and Nancy H. Ward.

Motion Adopted: 5 Yea.

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

Findings
of Fact
(continued)

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 will have no adverse impact of any sort so long as DelDOT requires as a condition of any entrance permit, appropriate road

Findings
of Fact
(continued)

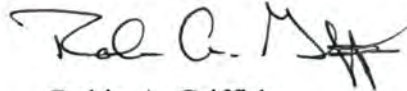
widening and traffic mitigating design. The change of zone is consistent with the Comprehensive Land Use Plan.

2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 389 00
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 2:20 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council