

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 5, 2003**

**Call to Order**            The regular meeting of the Sussex County Council was held Tuesday, August 5, 2003, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Lynn J. Rogers</b>	<b>President</b>
<b>Dale R. Dukes</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Member</b>
<b>Finley B. Jones, Jr.</b>	<b>Member</b>
<b>Vance Phillips</b>	<b>Member</b>
<b>Robert L. Stickels</b>	<b>County Administrator</b>
<b>David Baker</b>	<b>Finance Director</b>
<b>James D. Griffin</b>	<b>County Attorney</b>

**M 446 03**            A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the  
**Approve**            Agenda, as distributed.  
**Agenda**

**Motion Adopted:     5 Yea.**

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

**M 447 03**            A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the  
**Approve**            minutes of July 29, 2003, as distributed.  
**Minutes**

**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. Griffin read the following correspondence:  
**spondence**

**BEA DICKIE, CHAIRMAN, SUSSEX COUNTY FESTIVAL OF TREES,**  
**DELAWARE HOSPICE, GEORGETOWN, DELAWARE.**

**RE: Letter announcing that the Festival of Trees will be returning to**  
**Delaware Technical and Community College, December 5 – 7, 2003 and**  
**asking Council to consider becoming a tree or wreath sponsor.**

**M 448 03**            A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt the  
**Adopt**            Proclamation entitled "PROCLAIMING WEDNESDAY, AUGUST 13,  
**Procla-**            2003, AS SUSSEX COUNTY SAFE KIDS DAY".  
**mation**

**Motion Adopted:     5 Yea.**

**M 448 03  
(continued)**

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

**Delaware  
Community  
Foundation**

**Mr. Fred Sears, President and CEO of the Delaware Community Foundation, and Mr. John Hollis, Senior Vice President, Southern Delaware Office of the Delaware Community Foundation, were present to accept a \$7,500.00 grant from the County Council. Mr. Hollis explained the organization's mission and activities. The Foundation was created in 1986 to provide a lasting source of charitable funding to benefit the people of Delaware. The Foundation is a source of philanthropic services as well as community support in Delaware which enables people with philanthropic interests to easily and effectively give back to the community and support the issues they care about. The Foundation manages and administers hundreds of charitable funds; over the past 15 years, the Foundation has distributed some \$38 million in grants.**

**Adminis-  
trator's  
Report**

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

**1. County Council Meetings**

**A reminder that the County Council will be meeting on Tuesday, August 19, 2003, at 6:30 p.m. The County Council is scheduled to meet in the evening on the third Tuesday of each month for the remaining calendar year. The next evening meeting will be held on Tuesday, September 16, starting at 6:30 p.m., with the public hearings scheduled for 7:30 p.m.**

**Old  
Business/  
C/Z  
No. 1482**

**The County Council discussed a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 44.83 ACRES, MORE OR LESS" (Change of Zone No. 1482) filed on behalf of Donald Derrickson.**

**The Planning and Zoning Commission held a Public Hearing on this application on November 14, 2002 at which time they deferred action. The Commission left the record open for receipt of comments from DelDOT in reference to the Traffic Impact Study. The Sussex County Planning and Zoning Department received DelDOT's comments in June. On July 10, 2003 the Commission was provided a copy of DelDOT's comments. On July 24, 2003 the Commission recommended approval with 13 conditions. The summary and the findings and recommendations of the Commission were admitted as part of the record.**



**Old  
Business/  
C/Z  
No. 1482  
(continued)**

**The County Council held a Public Hearing on this application on December 10, 2002 at which time action was deferred.**

**The County Council considered the conditions recommended by the Planning and Zoning Commission and those proposed by the applicant.**

**M 449 03  
Adopt  
Ordinance  
No. 1627  
(C/Z  
No. 1482)**

**A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1627 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 44.83 ACRES, MORE OR LESS" (Change of Zone No. 1482) filed on behalf of Donald Derrickson, with the following conditions:**

- 1. The maximum number of dwelling units shall not exceed 147 comprised as follows: 128 townhouse units, 18 duplex units, and the one apartment that currently exists above the golf course pro-shop.**
- 2. All entrance, intersection, roadway, and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination, including the five conditions stated on Page 8 of DelDOT's comments dated June 13, 2003.**
- 3. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2-years of the issuance of the first building permit. These amenities shall include a swimming pool and a bathhouse.**
- 4. The development shall be served by County sewer as part of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**
- 5. The development shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, using Best Management Practices with regard to the construction and maintenance of these features.**
- 7. Site plan review shall be subject to the approval of the Planning and Zoning Commission.**
- 8. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. In addition, sidewalks shall be built along at least one side of the entrance road to the project and the streets shall be curbed and utilize a closed pipe drainage system in the multi-family areas.**
- 9. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**
- 10. No site preparation, site disturbance, site excavation or other site construction shall be commenced until all permits required by all other laws, ordinances, rules and regulations shall have been issued and the approved final site plan is recorded, except site work for which a**



**M 449 03**  
**Adopt**  
**Ordinance**  
**No. 1627**  
**(C/Z**  
**No. 1482)**  
**(continued)**

permit has been issued by the Sussex Conservation District. The site work authorized by the Sussex Conservation District permit may be commenced upon submission of copies of the application for permits from the Sussex County Engineering Department and DelDOT to the Director of Planning and Zoning and submission of a bond in an amount equal to 125% of the cost of the site work authorized by the Sussex Conservation District permit and in a form acceptable to the County Attorney. The Bond shall be released upon the issuance of all other permits and the filing of an approved master plan or final site plan.

11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off, or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.
12. Sidewalks and street lighting shall be provided throughout the project.
13. As the Applicant has agreed, the golf course area shall remain as open space, even if it is no longer in operation.
14. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.

**Motion Adopted: 5 Yea.**

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

**Proposed**  
**Ordinances**  
**Relating to**  
**2002 Land**  
**Use Plan**

Mr. Kautz, Land Use Planner, and Mr. Shafer, the County's Land Use Consultant, reviewed Proposed Ordinances relating to allowing Agricultural Related Industry and Biotech Industry and Biotech Campus as a Conditional Use. Copies of the Proposed Ordinances were provided to Council.

**Introduction**  
**of**  
**Proposed**  
**Ordinances**

Mr. Dukes introduced the Proposed Ordinances entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ALLOW AGRICULTURAL RELATED INDUSTRY AS A CONDITIONAL USE IN THE AGRICULTURAL RESIDENTIAL ZONING DISTRICT, TO DEFINE AGRICULTURAL RELATED INDUSTRY, AND TO DELETE CONFLICTING LANGUAGE" and "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ALLOW A BIOTECH INDUSTRY AND A BIOTECH CAMPUS AS A CONDITIONAL USE IN THE AGRICULTURAL RESIDENTIAL ZONING DISTRICT AND TO DEFINE BIOTECH INDUSTRY AND BIOTECH CAMPUS". The Proposed Ordinances will be scheduled for a Public Hearing before the Planning and Zoning Commission on September 25, 2003 and a Public Hearing before the Sussex County Council on October 14, 2003.

**Require-**  
**ments**

Mr. Stickels referred to a question raised following the July 29th meeting regarding the necessity of reading the title of a Proposed Ordinance in order for it to be introduced. Mr. Griffin advised that it is his



**Requirements  
regarding  
Proposed  
Ordinances  
(continued)**

understanding and opinion that reading the title of the proposed ordinance is done to focus the attention of Council on the matter that they are acting on. Delaware Code, Title 9, Section 7002-N, refers to actions required by ordinance and states that "Every proposed ordinance shall be introduced in writing..." The Rules of Procedure for the County Council, Item 10.2, states that "a proposed ordinance may be introduced in writing by any member of the County Council at a duly constituted meeting..." Based on this information, Mr. Griffin advised that there are no legal requirements that the title of a proposed ordinance be read prior to introduction.

Mr. Cole commented that it has always been the policy of the County Council to read the title of a proposed ordinance prior to introduction and that the County Council should continue this policy.

**Wastewater  
Facilities**

Mr. Green, Director of Utility Construction, discussed wastewater facilities to be constructed in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

**M 450 03  
Execute  
Agreements/  
The  
Village  
of Five  
Points**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 293-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Olde Towne Pointe, LLC, for wastewater facilities to be constructed in The Village of Five Points - East Village - Phase 2, Phase 2", located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

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

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

(Mr. Phillips was out of the room during the discussion.)

**M 451 03  
Execute  
Agreements/  
The  
Village  
of Five  
Points**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 293-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Olde Towne Pointe, LLC for wastewater facilities to be constructed in The Village of Five Points – East Village – Phase 2, Phase 3, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

**Motion Adopted:** 5 Yea.

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

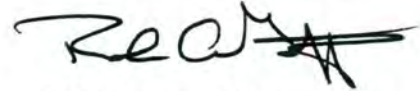


<b>Proposed Ordinance</b>	<b>Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.48 ACRES, MORE OR LESS” (Conditional Use No. 1523) filed on behalf of Raab-Ford. The Proposed Ordinance will be advertised for Public Hearing.</b>
<b>Proposed Ordinance</b>	<b>Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL 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 23.52 ACRES, MORE OR LESS” (Conditional Use No. 1524) filed on behalf of Rehoboth Beach Associates, LLC. The Proposed Ordinance will be advertised for Public Hearing.</b>
<b>Proposed Ordinance</b>	<b>Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE STAND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 22,500 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1525) filed on behalf of Kay A. Wilkerson. The Proposed Ordinance will be advertised for Public Hearing.</b>
<b>Proposed Ordinance</b>	<b>Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL 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 38.23 ACRES, MORE OR LESS” (Conditional Use No. 1526) filed on behalf of Robino-Sanibel Village, LLC. The Proposed Ordinance will be advertised for Public Hearing.</b>
<b>Proposed Ordinance</b>	<b>Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 32,250 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1527) filed on behalf of Victoria’s Hair Classics. The Proposed Ordinance will be advertised for Public Hearing.</b>
<b>Public Comments</b>	<b>Mr. Dan Kramer commented on the reading of the title of a proposed ordinance prior to introduction.</b>

**M 452 03**  
**Adjourn**

**There being no further business, a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 11:16 a.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

A handwritten signature in black ink, appearing to read "Rea" followed by a stylized flourish.

**Robin A. Griffith**  
**Clerk of the Council**