

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 12, 2003

**Call to
Order**

The regular meeting of the Sussex County Council was held Tuesday, August 12, 2003, 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
James D. Griffin	County Attorney

**M 453 03
Amend
and
Approve
Agenda**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to amend the Agenda to include, immediately following the conclusion of the morning session, an Executive Session to be held for the purpose of discussing land acquisition; 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 454 03
Approve
Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the minutes of August 5, 2003, 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-
spondence**

Mr. Griffin read the following correspondence:

**SEAFORD MISSION, INC., SEAFORD, DELAWARE.
RE: Activities and financial update.**

**SUSSEX CENTRAL FOOTBALL BOOSTERS, GEORGETOWN,
DELAWARE.
RE: Letter in appreciation of grant.**

**Prime
Hook
National
Wildlife
Refuge/
Payment
in Lieu
of Taxes**

Mr. Baker reported that a check in the amount of \$66,702.00 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. The check represents payment under the Refuge Revenue Sharing Act covering Fiscal Year 2002. Sussex County may use the funds for any governmental purpose.

Mr. Stickels noted that this year's payment is a \$5,000.00 increase over last year's payment in the amount of \$61,931.00 and a \$29,000.00 increase over the previous year's payment in the amount of \$37,263.00.

Mr. Baker presented for Council's authorization, the recommended distribution of the Refuge Revenue Sharing Funds, as follows: Milford School District - \$16,344.49; Cape Henlopen School District - \$35,106.69; Sussex Technical High School - \$5,162.20; Library - \$982.00; and Sussex County - \$9,107.00

Mr. Baker noted that the allocation is based on actual tax percentages.

**M 455 03
Authorize
Distri-
bution of
Refuge
Revenue
Sharing
Funds**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council authorizes the distribution of the Refuge Revenue Sharing Funds, as proposed.

Motion Adopted: 4 Yea, 1 Nay.

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

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

**Appoint-
ments**

The County Council discussed Committee appointments and expired terms.

**M 456 03
Reappoint
Members
of the
Advisory
Committee/
Aging and
Adults with
Physical
Disabilities
Committee**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to reappoint Albert Clark, Byron Cooper, Vance Daniels, L. Thomas Shockley, David B. Webb, Jr., Irvin Aydelotte, and John Williams to the Advisory Committee for the Aging and Adults with Physical Disabilities for a term of two years.

Motion Adopted: 5 Yea.

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

**Library
Advisory
Board**

It was noted that Michelle Roenke, a member of the Library Advisory Board, is an appointment of Councilman Cole and that she no longer lives in Mr. Cole's Councilmanic District due to reapportionment. For this

(continued) reason, it will be necessary for Mr. Cole to make a new appointment. Mr. Cole stated that he was not prepared to submit a name for Council's consideration. Ms. Roenke will continue to serve until a new appointment is made.

M 457 03
Building
Code
Appeal
Board
Reappoint-
ment

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to reappoint Todd Mumford to the Building Code Appeal Board for a term of four years.

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. Public Workshop

The Delaware Department of Transportation is holding a Public Workshop to present a Public Workshop to present a model of the proposed Indian River Inlet Bridge. The workshop will be held on Wednesday, August 20, 2003, at the Delaware Seashore State Park parking lot on the southeast side of the Indian River Inlet Bridge. The public is invited to attend from 5:00 to 8:00 p.m. A presentation to unveil the new design will begin at 5:30 p.m.

At the workshop, the public will be able to view a model of the proposed Indian River Inlet Bridge. In addition, displays and information will be available regarding access roads, landscaping, and improvements to the Delaware Seashore State Park.

2. 9-11 Memorial

The Sussex County Council will host a 9-11 Memorial Service on Thursday, September 11, 2003 starting at 10:00 a.m. on The Circle. Federal, State, and local officials will be in attendance. Public safety providers will be recognized during the ceremony. I would encourage the public to attend this activity.

Draft
Ordinance
Relating
to the
Issuance
of General
Obligation
Bonds

Mr. Baker presented a draft ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO AN ADDITIONAL \$815,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF THE ELLENDALE SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH". This Ordinance authorizes a loan in the amount of \$815,000 from the Department of Agriculture, Rural Development, Rural Utilities Service (RUS) for the Ellendale Sanitary Sewer District.

Draft Ordinance Relating to the Issuance of General Obligation Bonds/ Ellendale Sanitary Sewer District

The Draft Ordinance provides for the issuance of up to an additional \$815,000 of Sussex County General Obligation Bonds in order to finance or refinance a portion of the costs for the design, construction, and equipping of the wastewater collection and transmission facilities for the Ellendale Sanitary Sewer District.

Mr. Baker reported that the RUS also approved, as part of the financing package, an additional \$570,000 in grant money. The County Council previously authorized \$1,250,000 in loans from the RUS for this project, as well as State SRF loan funding for \$2,726,000.

Mr. Baker noted that, due to construction cost increases, the financing plan had to be revised resulting in the request for the additional \$815,000.

Introduction of Proposed Ordinance

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO AN ADDITIONAL \$815,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF THE ELLENDALE SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”. A Public Hearing will be held on September 9, 2003 at 11:00 a.m.

Bid Results/ Manufactured Home/ Paramedic Station

Mr. Shade, Purchasing Director, and Mr. Luedtke, Director of EMS, reported on the bid results for the purchase of a manufactured home to be used as office space for Paramedic Station 104 in the Lewes – Rehoboth area, as follows:

Colonial East, Ltd.	\$37,800.00
Options	<u>565.00</u>
Total	\$38,365.00

M 458 03 Award Bid/ Manufactured Home/ Paramedic Station

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council accepts the bid of Colonial East Ltd. in the amount of \$38,365.00 for the purchase of one new manufactured home for use as office space for Paramedic Station No. 104.

Motion Adopted: 5 Yea.

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

Requests

Mr. Stickels presented grant requests for Council’s consideration.

**M 459 03
Youth
Activity
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to Delaware District III Girls Big League Softball Team for tournament expenses.

Motion Adopted: 5 Yea.

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

**M 460 03
Council-
manic
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$500.00 from Mr. Dukes' Councilmanic Account to the Woodland Ferry Association for their golf tournament fundraiser.

Motion Adopted: 5 Yea.

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

**M 461 03
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$250.00 from Mr. Rogers' Councilmanic Account to the Slaughter Neck Educational & Community Center for operating expenses.

Motion Adopted: 5 Yea.

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

**M 462 03
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$125.00 from Mr. Jones' Councilmanic Account to the Bridgeville Kiwanis for their golf tournament fundraiser.

Motion Adopted: 5 Yea.

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

**M 463 03
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$200.00 (\$100.00 each from Mr. Jones' and Mr. Dukes' Councilmanic Accounts) to the New Coverdale Outreach Mission for operating expenses for the Youth Dance Program.

Motion Adopted: 5 Yea.

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

**M 464 03
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$150.00 from Mr. Jones' Councilmanic Account to the Slam Softball Team for tournament expenses.

Motion Adopted: 5 Yea.

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

**M 465 03
Youth
Activity
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$1,250.00 (\$250.00 from each Youth Activity Grant Account) to the Boy Scouts of America, Del-Mar-Va Council, Inc. for their Community Campaign.

Motion Adopted: 5 Yea.

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

**M 466 03
Youth
Activity
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00 (\$250.00 each from Mr. Rogers' and Mr. Jones' Youth Activity Grant Accounts) to Milford Little League, Inc. for tournament expenses.

Motion Adopted: 5 Yea.

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

**M 467 03
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$750.00 (\$500.00 from Mr. Cole's Councilmanic Account and \$250.00 from Mr. Phillips' Councilmanic Account) to the Lord Baltimore Parent Teacher Organization for the 9th Annual Coastal Music and Arts Festival.

Motion Adopted: 5 Yea.

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

**M 468 03
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500.00 (\$100.00 from each Councilmanic Account) to the Alzheimer's Association, Delaware Valley Chapter for the Memory Walk Fundraiser.

Motion Adopted: 5 Yea.

**M 468 03
(continued)**

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

**Wastewater
Facilities**

Mr. Green, Director of Utility Construction, discussed the construction of wastewater facilities.

**M 469 03
Execute
Agreements/
Sussex
West
Manu-
factured
Home
Park/
Phase 2**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 175-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Colonial East Limited, for wastewater facilities to be constructed in Sussex West Manufactured Home Park – Phase 2, 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**

**M 470 03
Execute
Agreements/
Poynter's
Square**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 308, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Highway One Limited Partners, for water and wastewater facilities to be constructed in Poynter's Square, located in the Dewey Beach Sanitary Sewer and Water District.

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. Dukes introduced the Proposed Zoning Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HEAT AND AIR CONDITIONING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.85 ACRES, MORE OR LESS" (Conditional Use No. 1528) filed on behalf of Saveno and Deborah Pulice. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

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

Proposed Ordinance (continued)	AUTOMOTIVE REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.54 ACRES, MORE OR LESS” (Conditional Use No. 1529) filed on behalf of Bart and Brenda Donaway. The Proposed Ordinance will be advertised for Public Hearing.
Proposed Ordinance	Mr. Dukes introduced the Proposed Zoning Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRASH DISPOSAL BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.94 ACRES, MORE OR LESS” (Conditional Use No. 1530) filed on behalf of Moor Disposal Service, Inc. The Proposed Ordinance will be advertised for Public Hearing.
Proposed Ordinance	Mr. Rogers introduced the Proposed Zoning Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT FOR THE CREATION OF TWO (2) PONDS CONTAINING APPROXIMATELY 5.0 ACRES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 78.48 ACRES, MORE OR LESS” (Conditional Use No. 1531) filed on behalf of Dean W. Sherman. The Proposed Ordinance will be advertised for Public Hearing.
Proposed Ordinance	Mr. Dukes introduced the Proposed Zoning 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 22,497 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1532) filed on behalf of E. F. and Martha Quillen. The Proposed Ordinance will be advertised for Public Hearing.
Proposed Ordinance	Mr. Rogers introduced the Proposed Zoning Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 83.74 ACRES, MORE OR LESS” (Change of Zone No. 1533) filed on behalf of Hailey/Ribera Development, LLC. The Proposed Ordinance will be advertised for Public Hearing.
Board of Adjustment/ Billboard Application	Council discussed a Board of Adjustment issue relating to the denial of an application for an advertising billboard in a commercially zoned area. It was noted that billboards are permitted in commercially zoned areas provided a special use exception is granted by the Board of Adjustment.

**Board of
Adjustment
(continued)**

Questions were raised following the Board's decision to deny the application as to (1) whether there was a valid reason for denial and (2) Council's position on billboards. The Board's reasons for denial were as follows: (1) there is not a need for additional billboards and (2) there would be a negative impact on the area.

Mr. Stickels noted that if the Board of Adjustment denies an application, the applicant cannot reapply.

It was noted that Council is not taking a position on billboards and that billboard regulations have previously been established and remain in effect.

Mr. Stickels advised Council that there were no agenda items for the August 19th meeting. The August 19th meeting was to be the first night meeting.

**M 471 03
Cancel
8/19/03
Council
Meeting**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to cancel the August 19th meeting due to the lack of business for Council to consider.

Motion Adopted: 3 Yea, 2 Nay.

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

**Public
Hearing
(C/U
No. 1512)**

A Public Hearing was held on the Proposed Zoning Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6,000 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1512) filed on behalf of Randall J. Pentoney and Diane M. Pentoney.

The Planning and Zoning Commission held a Public Hearing on this application on July 24, 2003, at which time they deferred action. Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary of the Commission's Public Hearing was admitted as part of the record of this Public Hearing.

Mr. Lank read a letter received by the Sussex County Planning and Zoning Department on August 11, 2003 from Tower Shores Beach Association in support of the application.

The Council found that Mr. Pentoney was present on behalf of his application. Mr. Pentoney stated that four (4) units exist on the site and the existing units will be demolished; that he proposes to build a duplex on the site; and that larger units are needed to satisfy tenant needs,

**Public
Hearing
(C/U
No. 1512)
(continued)**

Mr. Lank advised the Council that the Applicant will be required to request a variance for the lot size from the Board of Adjustment.

The Council found that Donna Thomas, agent for the applicant and property owner in Tower Shores, spoke in support of the application.

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

**M 472 03
Defer
Action on
C/U
No. 1512**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to defer action on Conditional Use No. 1512, filed on behalf of Randall J. Pentoney and Diane M. Pentoney.

Motion Adopted: 5 Yea.

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

**Comments/
Con-
struction
Material**

The Council heard comments from an area builder regarding the type of sheathing material being used in the construction of some homes, especially in the beach area. He expressed his opinion that the material is not safe and the jobs should be stopped. Mr. Van Milligan, the County's Building Code Supervisor, reported that the material meets the current building code, if it is installed properly.

Mr. Stickels commented that this matter should be brought to the attention of the Building Code Review Committee or discussed at a Public Hearing so that everyone would have the opportunity to speak on the issue.

**M 473 03
Recess**

At 11:40 a.m., a Motion was made by Mr. Cole, seconded by Mr. Jones, to recess and go into Executive Session. Motion Adopted by Voice Vote.

**Executive
Session**

At 11:45 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing land acquisition. The Executive Session concluded at 12:01 p.m.

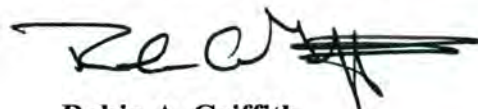
**M 474 03
Reconvene**

At 12:02 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Cole, to conclude the Executive Session and to reconvene the regular session. Motion Adopted by Voice Vote.

**M 475 03
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to adjourn at 12:05 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



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