

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 29, 2000

Call to Order The regular meeting of the Sussex County Council was held Tuesday, August 29, 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
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 418 00 A Motion was made by Mr. Dukes, seconded by Mr. Jones, to approve
Approve the Agenda, as distributed.
Agenda

Motion Adopted: 4 Yea, 1 Absent.

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

Corre- Mr. Bayard read the following correspondence:
spondence

AIR QUALITY MANAGEMENT, DELAWARE DIVISION OF
NATURAL RESOURCES AND ENVIRONMENTAL CONTROL,
DOVER, DELAWARE.

RE: Notice of Public Hearing.

JOHN THEOFILES, SKYWATCH ELECTRONICS, DELMAR,
DELAWARE.

RE: Letter in appreciation of funding for the Laurel Fireworks
Celebration.

M 419 00 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt the
Adopt Proclamation entitled "PROCLAIMING THE WEEK OF SEPTEMBER
Procla- 17 THROUGH 23, 2000, AS 'CONSTITUTION WEEK' IN SUSSEX
mation

M 419 00
(continued)

Motion Adopted: 4 Yea, 1 Absent.

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

Road
Naming
Moratorium
Extension

Mr. Stickels presented a request to extend the moratorium on road name changes until August 31, 2001. In September, 1999, Council established a procedure by which they would not accept any applications for road name changes until August 1, 2000 through September 30, 2000. Mr. Stickels advised that he is asking that these dates be extended due to the fact that the road naming project has not been completed. Mr. Stickels explained that issues need to be resolved with 3DI and the road naming project should be completed prior to any more changes are approved. In addition, DelDOT needs to complete the road sign production and installation project.

Councilmembers expressed concern over: (1) the fact that the road naming project has not been completed, (2) the proposed time extension, and (3) the fact that Council would be denying people the right to make application when dates have already been established to allow them to do so.

Mr. Dukes suggested that the moratorium be extended to December 31, 2000 instead of August 31, 2001.

M 420 00
Extend
Moratorium
on Road
Name
Changes

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to extend the moratorium on road name changes until December 31, 2000.

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

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

Councilmembers discussed their dissatisfaction with the progress that 3DI is making on the road naming project. Mr. Stickels advised that the County is looking at all options for the completion of this project. Mr. Phillips questioned whether another company's services could be retained to complete the project. Mr. Stickels responded that retaining the services of another company would not be cost effective.

DelDOT
Five
Year
CIP

Mr. Stickels reported that on September 14, 2000, DelDOT will be holding a public meeting to receive input on the Five Year Capital Improvement Program. Mr. Stickels reviewed the report he has prepared that lists Sussex County Council's priority requests:

DelDOT
Five
Year
CIP
(continued)

- North/south limited access, revenue-generating toll road.
- Development of a network of east/west roads to compliment the new north/south limited access highway. These roads include SR54, SR404, SR24, SR17, and SR36.
- SR1, Grid Improvements, Rehoboth Avenue to Five Points.
- Route 16 improvements.
- Resurfacing of Route 5.
- SR 24 and SR 5, Long Neck Road, intersection improvements.
- Road 352 widening.
- Improvements at the Sussex County Airport.

Mr. Phillips commented that the report refers to the rate of speed for the north/south limited access toll road as 65. Mr. Phillips requested that this be changed to 55.

Mr. Stickels requested that Councilmembers contact him with any recommended changes/additions to his report. The report will be placed on the September 12, 2000, Council meeting agenda for further discussion.

Adminis-
trator's
Report

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

1. Holiday Schedule

County offices will be closed Monday, September 4, 2000, to allow employees to observe Labor Day. There will not be a Council meeting on Tuesday, September 5, 2000. The next regularly scheduled Council meeting will be Tuesday, September 12, 2000, at 10:00 a.m. in the Council Chambers.

2. Building Inspection Certification

I am pleased to inform Council that Mr. Greg Hill has successfully completed the Southern Building Code Congress International's building inspection certification course. The course includes a six-hour examination. Nationwide, the percentage of persons passing the exam is only 45 percent the first time taken. With Mr. Hill completing the course, all four County inspectors are now SBCCI certified.

Public
Hearing/
Transfer
Tax

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 103 OF THE CODE OF SUSSEX COUNTY IN ORDER TO CONFORM TRANSFER TAX EXEMPTIONS TO STATE LAW". This Ordinance conforms the County Realty Transfer Tax law to the Delaware Realty Transfer Tax law, as recently amended by the General Assembly, so as to exempt transfers between siblings from transfer tax.

Hearing

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

M 421 00
Adopt
Ordinance
No. 1392

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1392 entitled "AN ORDINANCE TO AMEND CHAPTER 103 OF THE CODE OF SUSSEX COUNTY IN ORDER TO CONFORM TRANSFER TAX EXEMPTIONS TO STATE LAW".

Motion Adopted: 4 Yea, 1 Absent.

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

C/U
No. 1335

Conditional Use No. 1335 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL PHOTOGRAPHY STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 33,100 SQUARE FEET, MORE OR LESS" filed on behalf of Stephen C. Theis was discussed.

Mr. Dukes advised that he would not be participating in this discussion due to a possible conflict of interest.

The Planning and Zoning Commission held a Public Hearing on this application on June 8, 2000, at which time they deferred action. On June 22, 2000, the Commission recommended approval of the application. The County Council held a Public Hearing on this application on June 27, 2000, at which time they deferred action so that the Waiver of restrictive covenants between Stephen Theis and his neighbors, dated August 28, 1979, could be reviewed by Council's legal counsel. Mr. Bayard reported that he has reviewed the Waiver and has concluded that as long as Mr. Theis maintains part of his home as his residence (whether full-time or part-time), the County Council can grant a Conditional Use consistent with the terms of the language of the August 28, 1979, agreement. Mr. Bayard further reported that if Mr. Theis converts the entire home into a studio or other photographic business activity, the Waiver of restrictive covenants terminates according to its own terms and any conditional use expires automatically.

M 422 00
Adopt
Ordinance
No. 1393
(C/U
No. 1335)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1393 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL PHOTOGRAPHY STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 33,100 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1335) filed on behalf of Stephen C. Theis, with the

M 422 00
(continued)

following stipulations:

1. One unlighted sign, not exceeding 2' by 4', may be permitted.
2. The property shall be maintained as it exists, and the applicant shall conform to the terms of the Waiver at Deed Book 969, Page 234. This conditional use will terminate according to the terms of that document.
3. The appearance of the property shall retain its residential character.
4. There shall be no outside storage.
5. Off-street parking shall be provided. There shall be no parking on the street right-of-way.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

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

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Dukes, Abstained; 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 his photography business has grown and the proposed use is consistent with the requirements of a Waiver of Restrictive Covenants between the applicant and his neighbors of record at Deed Book 969, Page 234. So long as the applicant's use of the property remains consistent with the terms of the Waiver, there will be no adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing/
Ellendale
SSD
Bond
Issuance

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE 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 two bond issues; it provides for the issuance of up to \$2,976,000 of Sussex County General Obligation Bonds in order to finance the design, construction, and equipping of the wastewater

Public
Hearing
(continued)

collection and transmission facilities for the Ellendale Sanitary Sewer District. The Bonds are not to exceed a term of 40 years. It is expected that the debt service for these Bonds will be paid from revenues of the Ellendale Sanitary Sewer District.

This Ordinance authorizes a Rural Development loan in an amount up to \$1,250,000 for a term not exceeding 40 years with a maximum rate of 4 1/2 percent.. This Ordinance also authorizes a State of Delaware Revolving Fund loan in an amount up to \$1,726,000 for a term not exceeding 20 years with a maximum rate of 2 percent. These loans will be combined with the following grant funds to finance the project: \$3.8 million from the State of Delaware; \$750,000 from the Federal government; and \$250,000 from the County.

Public comments were heard in support of the Proposed Ordinance. The Public Hearing was closed.

M 423 00
Adopt
Ordinance
No. 1394
Ellendale
SSD
Bond
Issuance

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1394 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE 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".

Motion Adopted: 4 Yea, 1 Absent.

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

Sea
Country
Estates I/
Request
for
Sewer
Petitions

Mr. Archut, Assistant County Engineer, presented information regarding a request for sewer service in Sea Country Estates I. This project, if approved, would connect to the proposed infrastructure for Bay View Estates. A referendum was recently held and approved for the Bay View Estates Sanitary Sewer District. Mr. Archut explained that an additional lot is proposed to be included in this sewer proposal as the lot is adjacent to the entrance of Sea Country Estates I. Sea Country Estates II is not included in the proposal.

The Engineering Department has met with the property owners in Sea Country Estates I and introduced the proposed user charges which are as follows:

1. Annual assessment charge - \$10.40 per front foot
2. Annual service charge - \$225.00 per EDU

Total estimated annual charge - \$1,265.00 per lot with 1 EDU

Sea
Country
Estates I
(continued)

3. One-time connection charge - \$1,650.00 per EDU

After the first year, the connection charge would increase to \$2,600.00.

Mr. Archut reported that a majority of the homeowners are interested in the sewer proposal.

Mr. Archut reported that the total project cost is estimated to be \$665,000. He noted that, if Council is interested, grant funding in the approximate amount of \$215,000 would bring costs in line with Bay View Estates (\$7.99 per front foot).

Mr. Archut advised that he has received a letter from the Sea Country Estates I Homeowners Association requesting that the County proceed with the preparation and circulation of petitions. Two members of the Association were present and spoke in favor of the proposal.

M 424 00
Approve
Preparation
and
Circulation
of
Petitions/
Sea
Country
Estates I

A Motion was made by Mr. Dukes, seconded by Mr. Jones, that the Sussex County Council approves the preparation and circulation of petitions to submit the question of organizing a sanitary sewer district to include Sea Country Estates I and adjoining lands to a vote of electors in that district.

Motion Adopted: 4 Yea, 1 Absent.

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

Sea
Country
Estates I

Mr. Stickels requested that the Engineering Department work with the State for possible grants, as this proposal would result in the elimination of holding tanks. It was noted that this area would most likely exceed the affordability requirements and that this would decrease their eligibility for grant funding from the State.

Pinetown
Service
Area

Mr. Archut, Assistant County Engineer, presented a proposal to extend the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District to include the community of Pinetown. This community is a low-income community; 91% of residents surveyed are low to moderate income.

The approximate cost of the project is \$541,000; there will also be impact fees in the approximate amount of \$147,700. It was noted that the funding for this project has always been a concern. Council has previously approved an application to Rural Development; an application has also been submitted to the State Revolving Fund. Rural Development has responded that they will provide a grant in the amount

Pinetown
(continued)

of \$450,321. The Engineering Department feels that with this grant, there is sufficient funding to move ahead with preparing and posting notices for the extension of the boundaries to include the Pinetown community. The County is trying to obtain a grant to cover some of the impact fees. Mr. Stickels advised that the County's current budget includes a grant to help with planning. In addition, this area would qualify for Community Development Block Grant funding for the abandonment of current systems and new connections. The County is still awaiting a response from the State regarding the State Revolving Fund funding request.

Mr. Truxon and Mr. Allen spoke in favor of the proposed extension and asked for Council's help in getting speed bumps installed on the roads at the same time sewer lines are installed and the roads repaired.

M 425 00
Authorize
Notices
for the
Pinetown
Extension

A Motion was made by Mr. Jones, seconded by Mr. Dukes, that the Sussex County 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 community of Pinetown.

Motion Adopted: 4 Yea, 1 Absent.

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

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 RELOCATION AND AMENDMENT TO CONDITIONAL USE NO. 891 (BORROW PIT) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 50.0 ACRES, MORE OR LESS" (Conditional Use No. 1361) filed on behalf of Joseph and Daniel Moore. 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 TO ADD ONE ADDITIONAL LOT TO AN EXISTING 31 LOT MOBILE HOME PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 18.48 ACRES, MORE OR LESS" (Conditional Use No. 1362) filed on behalf of Timothy S. Johnson. The Proposed Ordinance will be advertised for Public Hearing.

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 COUNTRY STORE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.052 ACRES, MORE OR LESS" (Conditional Use No. 1363) filed on behalf of Richard A. Smith. 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 SALES AND SERVICE OF RECREATIONAL VEHICLES (MOTORCYCLES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.614 ACRES, MORE OR LESS" (Conditional Use No. 1364) filed on behalf of Melvin A. and Judi A. Foracre. 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 A GR GENERAL RESIDENTIAL DISTRICT FOR A BULK PROPANE STORAGE AND DISTRIBUTION FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.74 ACRES, MORE OR LESS, PLUS AN ACCESS ROAD" (Conditional Use No. 1365) filed on behalf of Chesapeake Utilities Corporation. 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 A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 118.90 ACRES, MORE OR LESS" (Conditional Use No. 1366) filed on behalf of Melvin L. Joseph Construction Co. 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 A SIGN SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 16,918 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1367) filed on behalf of Jeffrey M. Irving. 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 A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (4 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13,582 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1368) filed on behalf of Steve Brophy. The Proposed Ordinance will be advertised for Public Hearing.

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 AUTO RESTORATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.78 ACRES, MORE OR LESS" (Conditional Use No. 1369) filed on behalf of James H. Cronin, Jr. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Phillips 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 11.2 ACRES, MORE OR LESS" (Change of Zone No. 1418) filed on behalf of PGS Properties, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

M 426 00
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$250.00 from Mr. Phillips' Councilmanic Account to Harvest Ministries, Inc. for operating expenses.

Motion Adopted: 4 Yea, 1 Absent.

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

M 427 00
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$200.00 from Mr. Jones' Councilmanic Account to Sussex County Strong Communities Initiative for air conditioners for the Coverdale Crossroads community center.

Motion Adopted: 4 Yea, 1 Absent.

M 427 00
(continued)

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

M 428 00
Recess

At 11:37 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Dukes, to recess the morning session. Motion Adopted by Voice Vote.

Reconvene

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

Public
Hearing
(C/U
No. 1348)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A 180 FOOT HIGH LATTICE COMMUNICATION TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, ON A 3,600 SQUARE FOOT LEASED PORTION OF A 57 ACRE TRACT (Conditional Use No. 1348) filed on behalf of C-SW Cellular Partnership.

The Planning and Zoning Commission held a Public Hearing on this application on August 10, 2000. On August 24, 2000 the Commission recommended that the application be denied.

The Council found that representatives of the applicant and of Cellular One were in attendance. There were no public comments and the Public Hearing was closed.

M 429 00
Adopt
Ordinance
No. 1395

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt Ordinance No. 1395 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A 180 FOOT HIGH LATTICE COMMUNICATION TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, ON A 3,600 SQUARE FOOT LEASED PORTION OF A 57 ACRE TRACT (Conditional Use No. 1348) filed on behalf of C-SW Cellular Partnership, with the following conditions:

1. The tower shall not exceed 180' in height.
2. The site shall have a security fence around its perimeter.
3. No construction shall begin until all State and Federal agency approvals have been received.
4. The site plan must be reviewed and approved by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

M 429 00
(continued)

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
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 a gap in cellular telephone communication coverage exists in the area to be served, and that the applicant is entitled to erect a 150' tower as a matter of right; thus, the issue for Council to resolve is whether or not 30' additional height is warranted to serve the public convenience, without adversely affecting neighboring and nearby properties.
2. Because the evidence disclosed that the tower can only topple on itself and that any electromagnetic radio radiation waves are far less than the minimum regulatory tolerance, there is no adverse impact on neighboring or nearby properties, their values, traffic, or the environment in the area.
3. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.

Public
Hearing
(C/U
No. 1349)

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 OFFICE AND WAREHOUSE FOR A HEATING AND AIR CONDITIONING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 34,740 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1349) filed on behalf of Ron and Doneita Witke. The Planning and Zoning Commission held a Public Hearing on this application on August 10, 2000, at which time they recommended approval.

The Council found that the applicant was in attendance. There were no public comments and the Public Hearing was closed.

M 430 00
Adopt
Ordinance
No. 1396

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1396 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND WAREHOUSE FOR A HEATING AND AIR CONDITIONING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 34,740 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1349) filed on behalf of Ron and Doneita Witke, with the

M 430 00
(continued)

following conditions:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.
2. One unlighted sign, not exceeding 32 square feet, may be permitted.
3. Outside storage shall be within an enclosed solid fence.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
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 is located in an area appropriate for neighborhood business activity and will have no adverse impact of any sort.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/Z
No. 1410)

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 GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 2.04 ACRES, MORE OR LESS" (Change of Zone No. 1410) filed on behalf of Karen Z. Bowden. The Planning and Zoning Commission held a Public Hearing on this application on August 10, 2000, at which time they recommended approval.

The Council found that the applicant was in attendance. There were no public comments and the Public Hearing was closed.

M 431 00
Adopt
Ordinance
No. 1397

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1397 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF

M 431 00
(continued)

LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 2.04 ACRES, MORE OR LESS” (Change of Zone No. 1410) filed on behalf of Karen Z. Bowden.

Motion Adopted: 4 Yea, 1 Absent.

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

Findings
of Fact

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

1. The applicant established that the change of zone is consistent with the character of the area as developed and consistent with the purposes and goals of the Comprehensive Land Use Plan.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1347)

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A HOT DOG CART FOR RETAIL SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.56 ACRES, MORE OR LESS” (Conditional Use No. 1347) filed on behalf of Klasik Karts.

The Council found that no one was present on behalf of this application and therefore, there was no record of support. There were no public comments and the Public Hearing was closed.

M 432 00
Adopt
Proposed
Ordinance
(C/U
No. 1347)

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A HOT DOG CART FOR RETAIL SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.56 ACRES, MORE OR LESS” (Conditional Use No. 1347) filed on behalf of Klasik Karts.

Motion Denied: 4 Nay, 1 Absent.

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

M 433 00
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$150.00 from Mr. Jones' Councilmanic Account to the Bridgeville Community Parent Resource Center for the "Back to School Fun Day".

Motion Adopted: 4 Yea, 1 Absent.

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

M 434 00
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$250.00 from Mr. Jones' Councilmanic Account to the Grandslam Softball Team for travel expenses.

Motion Adopted: 4 Yea, 1 Absent.

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

M 435 00
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$200.00 from Mr. Jones' Councilmanic Account to Mt. Sinai Holy Mission Church for the Coverdale Crossroads Project 2000.

Motion Adopted: 4 Yea, 1 Absent.

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

M 436 00
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to adjourn at 2:25 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of Council