

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 26, 2000

Call to Order The regular meeting of the Sussex County Council was held Tuesday, September 26, 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 474 00 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to amend the
Approve agenda to include the following under "Robert L. Stickels, County
Agenda Administrator":

"3. Community Development & Housing – Schedule of Public Hearings/Meetings";

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 475 00 A Motion was made by Mr. Dukes, seconded by Mr. Jones, to approve
Approve the minutes of the September 19, 2000 meeting, 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. Bayard read the following correspondence:
spondence

Corre-
spondence
(continued)

CHURCH OF GOD AND SAINTS OF CHRIST, SEAFORD,
DELAWARE.

RE: Request for funds for the Sussex County Free Thanksgiving Dinner.

M 476 00
Adopt
Procla-
mation

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt the Proclamation entitled "PROCLAIMING SUNDAY, OCTOBER 1, 2000, AS A DAY TO RECOGNIZE ST. GEORGE'S UNITED METHODIST CHURCH".

Motion Adopted: 5 Yea.

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

M 477 00
Adopt
Procla-
mation

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the Proclamation entitled "PROCLAIMING SUNDAY, OCTOBER 15, 2000, AS A DAY TO HONOR MARK JOSEPH DOUGHTY".

Motion Adopted: 5 Yea.

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

M 478 00
Adopt
Procla-
mation

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt the Proclamation entitled "PROCLAIMING OCTOBER 13, 14, & 15, 2000 AS 'LIONS VISION DAYS' IN SUSSEX COUNTY".

Motion Adopted: 5 Yea.

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

CDBG
Public
Hearings/
Meetings
Schedule

Mr. Stickels distributed a list of Community Development and Housing Public Hearings/Meetings that have been scheduled from October 2 – December 12, 2000. There will be a total of seventeen public hearings held in the towns that have asked for the County's assistance in the CDBG funding application process. Public hearings will be advertised in local newspapers.

Adminis-
trator's
Report

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

1. Sussex County Airport Committee Meeting

Land Use
Advisory
Committee
Meeting

Mr. Abbott, Assistant Director of Planning & Zoning, reported on the meeting of the Land Use Advisory Committee that took place for the purpose of reviewing proposed ordinances. One of the proposed ordinances provides that a multi-sectional manufactured home may be placed on a ½ acre lot in an AR-1 Agricultural Residential District as long as it conforms to all other sections of the Code and subject to receiving a Special Use Exception from the Board of Adjustment. It was the consensus of the Committee that these homes should be existing prior to the adoption of the Comprehensive Land Use Plan. (The County's current ordinance permits a multi-sectional manufactured home on a ¾ acre lot.)

Introduction
of Proposed
Ordinance

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ENTITLED "ZONING", TO AMEND PROVISIONS RELATING TO THE PLACEMENT OF MULTI-SECTIONAL MANUFACTURED HOMES". (It was the consensus of Council that the adoption date of the Comprehensive Land Use Plan be incorporated into the text of the ordinance.)

Bid
Results/
UHF
Pagers

Mr. Thomas, Director of Emergency Operations, reported on the bid results of Sussex County Project EOC – 02 –00, UHF Pagers, as follows:

Caldabaugh Communications, Inc. Salisbury, Maryland	\$572,155.00
Motorola, Inc. Schaumburg, IL	\$517,281.48

This is part of the Fire Service UHF Paging Project that the County is funding a portion of. The County's portion is \$322,715.08. The County had agreed to purchase 1,100 pagers (50 per fire department and 25 for the two ambulance squads); 2 universal programmers; 2 maintenance manuals; 1 programmer; and 22 additional pagers for the paramedics. The County has also provided funding in the amount of \$100,000 for infrastructure.

The fire companies' portion is \$194,566.40. The fire companies will purchase 587 additional pagers and 433 amplified chargers.

The bids will be reviewed for a recommendation at a later date.

Headworks
Project/
SCRWF

Mr. Archut, Assistant County Engineer, discussed Change Order No.1, in the amount of \$12,157.83, for the Headworks Project that is on-going at the South Coastal Regional Wastewater Facilities. The Change Order covers two items: existing stop gate mount modifications and additional grating and grating support.

M 479 00 A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon
Approve the recommendation of the Engineer, George, Miles and Buhr, and the
Change County Engineering Department, that the Sussex County Council
Order/ approves Change Order No. 1 in an amount not to exceed \$12,157.83 to
Headworks the South Coastal Regional Wastewater Facilities Headworks Contract,
Project/ which increases the contract total from \$679,440 to \$691,597.83, and
SCRWF with the approval being subject to the State of Delaware Department of
Natural Resources and Environmental Control.

Motion Adopted: 5 Yea.

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

Bear Trap Mr. Green, Director of Utility Construction, discussed the execution of
Dunes Agreements for the Village of Bear Trap Dunes, Phase II.

M 480 00 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon
Execute the recommendation of the Sussex County Engineering Department, for
Agreements/ Sussex County Project No. 81-04, that the Sussex County Council
Village execute a Construction Administration and Construction Inspection
of Bear Agreement between Sussex County Council and Carl M. Freeman
Trap Dunes, Associates, Inc. for wastewater facilities to be constructed in The Village
Phase II at Bear Trap Dunes, Phase II, located in the South Bethany 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

Proposed Mr. Phillips introduced the Proposed Ordinance entitled "AN
Ordinance ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND
APPLICATION OF SLUDGE (PICKLE PROCESSING WASTE) TO
BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY,
CONTAINING 220 ACRES, MORE OR LESS" (Conditional Use No.
1372) filed on behalf of SYNAGRO-WWT, Inc. The Proposed
Ordinance will be advertised for Public Hearing.

Proposed Mr. Jones introduced the Proposed Ordinance entitled "AN
Ordinance ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND
APPLICATION OF SLUDGE (PICKLE PROCESSING WASTE) TO
BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND

Proposed Ordinance (continued) BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 88.0 ACRES, MORE OR LESS” (Conditional Use No. 1373) filed on behalf of SYNAGRO-WWT, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ICE CREAM AND COLD SANDWICH SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.51 ACRES, MORE OR LESS (Conditional Use No. 1374) filed on behalf of Lucy Millaway. The Proposed Ordinance will be advertised for Public Hearing.

M 481 00 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$700.00, \$140.00 from each Councilmanic Account, to the Church of God and Saints of Christ for the Sussex County Free Thanksgiving Dinner.

Motion Adopted: 5 Yea.

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

Agenda Item/ Sheriff Mr. Phillips asked if there was a consensus that Sheriff Reed attend next week’s Council meeting for the purpose of discussing starting salaries for Deputy Sheriffs. It was the consensus of Council to include Sheriff Reed on next week’s agenda.

Council Meeting Schedule Mr. Cole discussed the possibility of holding Council meetings two times a month and workshops on the other two Tuesdays in the month, on an as needed basis. A suggestion was also made to start Council meetings at 12:00 noon when public hearings are scheduled in the afternoon.

Barking Dogs Mr. Jones commented that he has received a complaint from a constituent regarding barking dogs. Mr. Jones also commented that it appears that there is no agency that deals with this issue – not even the SPCA. A recommendation was made that representatives from the SPCA be invited to attend a Council meeting for the purpose of discussing the enforcement policies and powers that they have.

Recess At 11:00 a.m., Mr. Rogers declared a recess until 1:30 p.m.

Reconvene Mr. Rogers called Council back into session at 1:35 p.m.

Attorney Dennis Schrader, Assistant County Attorney, was the attorney present for the afternoon session.

Public
Hearing
(C/U
No. 1355)

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 A CABINET SHOP AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS" (Conditional Use No. 1355) filed on behalf of Barry Morin. The Planning and Zoning Commission held a public hearing on this application on September 7, 2000, at which time they recommended approval. The Council found that Barry Morin and Steve Parsons, Attorney, were in attendance and presented information regarding the application. There were no public comments and the public hearing was closed.

M 482 00
Adopt
Ordinance
No. 1399

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt Ordinance No. 1399 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CABINET SHOP AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.0 ACRES, MORE OR LESS" (Conditional Use No. 1355) filed on behalf of Barry Morin, with the following conditions:

1. Business days shall be Monday through Saturday, with no Sunday hours.
2. Regularly scheduled business hours shall be from 7:30 a.m. to 5:30 p.m.
3. There shall be no retail sales performed on the site.
4. Storage may include materials for cabinets, cabinets, and countertops.
5. There may be some light assembly of cabinets and countertops.
6. One (1) unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.
7. 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 conditional use promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1351)

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 A CONTRACTOR'S OFFICE, PARKING, AND STORAGE OF EQUIPMENT AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.169 ACRES, MORE OR LESS" (Conditional Use No. 1351) filed on behalf of David M. Shepherd. The Planning and Zoning Commission held a public hearing on this application on September 7, 2000; on September 21, 2000, they recommended approval of the application. The Council found that David Shepherd and John Cordrey, Attorney, were in attendance and presented information regarding the application. Public comments were heard. Jerry Balthaser, a neighbor, was present and stated that he would not be opposed to the application if the applicant was restricted with the same or similar stipulations that he was required to comply with when granted a conditional use for his construction business in 1997. The Public Hearing was closed.

M 483 00
Adopt
Ordinance
No. 1400
(C/U
No. 1351)

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1400 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR'S OFFICE, PARKING, AND STORAGE OF EQUIPMENT AND MATERIALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.169 ACRES, MORE OR LESS" (Conditional Use No. 1351) filed on behalf of David M. Shepherd, with the following conditions:

1. There shall be no signs on site or at the entrance on Route 306-A.
2. There shall be no outside storage of materials.
3. Only dusk to dawn security lighting shall be on the site.

M 483 00
(continued)

4. No employees shall report to work and no trucks shall leave the site before 7:00 a.m.; no trucks shall return to the site after 5:00 p.m.; except in emergency situations.
5. There shall be no retail sales from the site.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.
7. There shall be no regularly scheduled Sunday hours.

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 conditional use promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1352)

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 SALES CART PROGRAM FOR THE SALE OF SOFT AND HARD GOODS OFF OF CARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 34.41 ACRES, MORE OR LESS" (Conditional Use No. 1352) filed on behalf of Rehoboth Outlets Center 3. The Planning and Zoning Commission held a public hearing on this application on September 7, 2000 at which time they recommended that action be deferred so that the location of the cart could be inspected. Bonnie McDaniel, General Manager for Rehoboth Outlets, was in attendance and presented information regarding the application. There were no public comments and the public hearing was closed. Action was deferred. (Mr. Rogers did not participate in this public hearing.)

Public
Hearing
(C/U
No. 1353)

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 SALES CART PROGRAM FOR THE SALE OF SOFT AND HARD GOODS OFF OF

Public
Hearing
(CU
No. 1353)
(continued)

CARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 15.14 ACRES, MORE OR LESS" (Conditional Use No. 1353) filed on behalf of Rehoboth Outlets Center 2. The Planning and Zoning Commission held a public hearing on this application on September 7, 2000 at which time they recommended approval with stipulations. Bonnie McDaniel, General Manager for Rehoboth Outlets, was in attendance and presented information regarding the application. Public comments were heard and the public hearing was closed. Action was deferred. (Mr. Rogers did not participate in this public hearing.)

Public
Hearing
(C/U
1354)

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 A SOFTBALL COMPLEX, CABINS, PARENT LODGING, ADMINISTRATION BUILDINGS, BATH HOUSES, POOL AND DINING HALL, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 131.94 ACRES, MORE OR LESS" (Conditional Use No. 1354) filed on behalf of Softball World, L.L.C. The Planning and Zoning Commission held a public hearing on this application on September 7, 2000 at which time they deferred action.

Pete Townsend, Tim Willard, Attorney, and Tom Ford of Land Design, Inc. were present on behalf of the application and presented information relating to the application.

Public comments were heard in favor of the application and centered around the fact that organized sports helps keep kids off the streets; that this facility will create a place for area little leagues and senior groups to play softball; that the players are dedicated athletes; that local players are required to go out of state to play in tournaments; and that a local facility will be a benefit to local players.

Public comments were heard in opposition to the application and centered around the fact that such a large project would disrupt the community, create undue traffic and noise, and would be out of character with the surrounding agricultural, residential, and church surroundings; that approval of the use would not be consistent with the Land Use Plan; that traffic will increase and cause additional backups; that an Agricultural Preservation District exists nearby; that the noise and lights will disturb area residents; that the project is close to the Indian Mission Church; that members of the Church are concerned about disruption and disturbance of the sacred burial grounds at the church cemetery; that there will be a negative environmental impact; that the players are children and children do get into mischief; and that security is a concern.

Hearing
(continued)

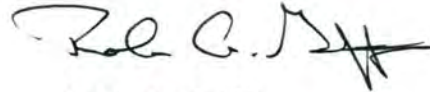
It was noted that there were 32 people present in support of the application and 67 people present in opposition to the application.

The Public Hearing was closed and action was deferred.

M 484 00
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to adjourn at 6:00 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council