

M 538 99
(continued)

Change of Zone No. 1375
C.L.H. Design

Change of Zone No. 1375
C.L.H. Design”;

and to amend the Agenda further by deleting the following:

“Robert C. Green, Director of Utility Construction

1. Savannah’s Landing Addition

A. Agreements”;

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. Rogers, Yea;
Mr. Jones, Yea

M 539 99
Approve
Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of the previous meeting, dated September 21, 1999.

Motion Adopted: 5 Yea.

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

Corre-
spondence

Mr. Bayard, County Attorney, read the following correspondence:

KATELYN, MEGAN, AND JILLIAN PHILLIPS, LAUREL, DELAWARE.
RE: Letter in appreciation of Council’s approval of the road renaming of
Kenny Road to Dogwood Lane.

Grant
Request

Mr. Stickels presented for Council’s consideration a request for a Youth Activity Grant from Sussex Central Pop Warner Football and Cheerleading Organization. Action was deferred.

Holiday
Schedule

Mr. Stickels presented for Council’s consideration the 2000 Holiday Schedule and a list of dates that the County Council will not meet, as follows:

Holiday
Schedule
(continued)

2000 Holiday Schedule

<u>Holiday</u>	<u>State Observance</u>	<u>County Observance</u>
New Year's Day	December 31 (Friday)	December 31 (Friday)
Martin Luther King, Jr.'s Birthday	January 17 (Monday)	January 17 (Monday)
Presidents' Day	February 21 (Monday)	February 21 (Monday)
Good Friday	April 21 (Friday)	April 21 (Friday)
Memorial Day	May 29 (Monday)	May 29 (Monday)
Independence Day	July 4 (Tuesday)	July 4 (Tuesday)
Labor Day	September 4 (Monday)	September 4 (Monday)
Columbus Day	October 9 (Monday)	October 9 (Monday)
Election Day	November 7 (Tuesday)	November 7 (Tuesday)
Return Day	November 9 (Thursday)	November 9 (Thursday)
Veterans' Day	November 10 (Friday)	November 10 (Friday)
Thanksgiving Day	November 23 (Thursday)	November 23 (Thursday)
Day After Thanksgiving	November 24 (Friday)	November 24 (Friday)
Christmas Eve		December 26 (Tuesday)
Christmas Day	December 25 (Monday)	December 25 (Monday)

2000 Council Holiday Schedule

March 7, 2000	-	NACo Conference
April 25, 2000	-	Easter Holiday
May 30, 2000	-	Day after Memorial Day
July 4, 2000	-	Independence Day
August 15, 2000	-	Summer Holiday
September 5, 2000	-	Day after Labor Day
November 7, 2000	-	Election Day
November 21, 2000	-	Thanksgiving Holiday
December 26, 2000	-	Day after Christmas

M 540 99
Adopt
Holiday
Schedule

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt the 2000 Holiday Schedule and County Council Schedule, as presented.

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

1. Sussex County Volunteer Firemen's Association Monthly Meeting

The Bethany Beach Volunteer Fire Company will be hosting the monthly Sussex County Volunteer Firemen's Association meeting at the Bethany Beach Fire Hall starting at 7:30 p.m. on Tuesday, September 28, 1999.

2. Tower Transformer Bids

The Sussex County Emergency Operations Department publicly opened bids for generators for the Angola communications tower and Anderson Crossroads communications tower. Bids were received from:

B & D Electric Nassau, DE	\$47,600
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H & A Electric Dover, DE	\$37,712
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Staff will make a recommendation to Council, after reviewing to see that all bids meet bidding requirements, within 30 days.

3. Availability of Hardship Grants for Septic System Rehabilitation in Rural Communities

I have received notification from the Department of Natural Resources and Environmental Control (DNREC) that a hardship grant in the amount of \$163,695 has been received from the USEPA to rehabilitate septic systems in rural communities. For the purpose of this grant, "community" is defined as having at least three dwelling units, and those units must be in close proximity to each other. Each community must have a population of 3,000 or less, the community's per capita income cannot exceed \$17,357, the communities unemployment rates must be 5.9 percent or higher, the community cannot be served by centralized sewage collection or treatment, and the community must be rural. This includes all non-incorporated areas of Delaware. Eligible

Adminis-
trator's
Report
(continued)

projects will receive an 85 percent grant and a 15 percent, 20-year, three percent interest loan to repair, replace, or rehabilitate failing septic systems.

The Financial Assistance Branch of DNREC will accept Notices of Intent to apply for these grant funds until the close of business October 30, 1999. Anyone wishing to submit a Notice of Intent should contact Mr. Brian Motyl at 302-739-5081 to obtain a Notice of Intent application form.

4. Community Development and Housing Public Hearings - FY 2000

The Sussex County Community Development and Housing Division will be conducting public hearings for the purpose of developing a Community Development Block Grant application. Mr. William Lecates, Director, will be responsible for conducting 15 hearings between October 4 and December 13. Included with this report is the date, time, and location of each hearing. Although it is not mandatory, Council may want to attend some of the hearings in their councilmanic district. Last year, Sussex County received over \$1 million in Community Development Block Grant funding.

In addition to the public hearings that Mr. Lecates will be conducting, he will also be meeting with First State Community Action as a member of the Board of Directors.

5. Public Assistance

Representatives from the Delaware Emergency Management Agency and the Sussex County Office of Emergency Preparedness will be taking applications at the Greenwood Town Hall on Friday, October 1, 1999, for any property owners who may have experienced damage as a result of Tropical Depression Floyd. Anyone who may have had damage is encouraged to visit the representatives between 1:00 and 3:00 p.m. It should be noted that at this time Sussex County has not been declared eligible for funds. However, we are investigating the possibility of trying to amend any funding of awards that may be granted to New Castle County.

Proposed
Ordinance
C/Z
No. 1374

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 HR-1/RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.01 ACRES, MORE OR LESS" (Change of Zone No. 1374) filed on behalf of C.L.H. Design. A Public Hearing was held on this application on April 27, 1999, at which time action was deferred for the receipt

Proposed Ordinance C/Z No. 1374 (continued)

of the sewer planning study and for other correspondence including information from DelDOT relating to traffic count and grid system. Mr. Bayard noted that correspondence had been received since the Public Hearing; however, the correspondence did not pertain to DelDOT's comments nor the sewer planning study. For this reason, the correspondence was not made a part of the record.

M 541 99 Adopt Proposed Ordinance C/Z No. 1374

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-1/RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.01 ACRES, MORE OR LESS" (Change of Zone No. 1374) filed on behalf of C.L.H. Design.

Motion Denied: 3 Nay, 1 Yea, 1 Abstention.

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

Proposed Ordinance C/Z No. 1375

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.90 ACRES, MORE OR LESS" (Change of Zone No. 1375) filed on behalf of C.L.H. Design. A Public Hearing was held on this application on April 27, 1999, at which time action was deferred for the receipt of the sewer planning study and for other correspondence including information from DelDOT relating to traffic count and grid system. Mr. Bayard noted that correspondence has been received since the Public Hearing; however, the correspondence did not pertain to DelDOT's comments nor the sewer planning study. For this reason, the correspondence was not made a part of the record.

M 542 99 Adopt Proposed Ordinance C/Z No. 1375

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt the Proposed 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.90 ACRES, MORE OR LESS" (Change of Zone No. 1375) filed on behalf of C.L.H. Design.

Motion Denied: 3 Nay, 1 Yea, 1 Abstention.

M 542 99
(continued)

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

Proposed
Ordinance
C/Z
No. 1376

Council discussed the Proposed 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.72 ACRES, MORE OR LESS (Change of Zone No. 1376) filed on behalf of C.L.H. Design. A Public Hearing was held on this application on April 27, 1999, at which time action was deferred for the receipt of the sewer planning study and for other correspondence including information from DelDOT relating to traffic count and grid system. Mr. Bayard noted that correspondence has been received since the Public Hearing; however, the correspondence did not pertain to DelDOT's comments nor the sewer planning study. For this reason, the correspondence was not made a part of the record.

M 543 99
Adopt
Proposed
Ordinance
C/Z
No. 1376

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt the Proposed 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.72 ACRES, MORE OR LESS (Change of Zone No. 1376) filed on behalf of C.L.H. Design.

Motion Denied: 3 Nay, 1 Yea, 1 Abstention.

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

Findings

Council members provided the following reasons for their denial of the three applications: that there is a lack of adequate recreational amenities proposed; that the density proposed is too high for a single family residential area; that the proposed project would not compliment the residential character of the area; that the proposed project can be construed as spot zoning which is not a favorable type of land use; that the proposed project would generate more traffic in an area that already experiences heavy traffic flows; and that potential infrastructure problems could occur.

Public
Hearing/
West
Rehoboth
Expansion

A Public Hearing was held on a proposed extension of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District to include the Heritage Golf Course and adjoining lands. Mr. Archut, Assistant County Engineer, reported that six of the seven owners of the adjoining lands have responded that they are not interested in being included in the expansion. Comments were

Public
Hearing
(continued)

heard in opposition to the expansion; comments referred to the belief that the entire golf course does not need to be included in the sewer district; that a golf course does not need sewer service; and that the owner of the golf course must have an ulterior motive for requesting sewer service. Council discussed the option that the expansion of the sewer district could encompass only the apartment and the pro shop that is located on the property. Additional comments in opposition to the expansion were heard from the adjoining property owners. Mr. Cole suggested that action be deferred for one week to permit the Engineering Department to draw an optional map of an expansion of the sewer district to include only the pro shop and the apartment.

M 544 99
Recess
Public
Hearing/
Defer
Action/
West
Rehoboth
Expansion

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to recess the Public Hearing for one week and to defer action on the proposed extension of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District to include Heritage Golf Course and adjoining lands.

Motion Adopted: 5 Yea.

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

Ocean View
and Holts
Landing
Sanitary
Sewer
Districts/
Con-
struction
Manage-
ment
Services

Mr. Izzo, County Engineer, presented for Council's consideration a contract amendment, in the amount of \$859,000.00, to the original contract with Whitman, Requardt and Associates, LLP to provide Construction Inspection Services for the three pending sewer projects: Holts Landing, Ocean View and Regional Pump Station Sewer Construction. Mr. Izzo reported that it has been the Engineering Department's policy to negotiate for inspection services following the completion of a design contract thereby permitting the development of a more accurate scope of work and more appropriate fee. Upon approval, Whitman, Requardt and Associates will provide engineering services during the Construction and Post-Construction Phases of the Project for Contract Administration, Submittal Reviews, Observation of the Work, and Resident Project Representation. Construction on all three contracts will begin within the next 30 – 45 days.

M 545 99
Execute
Contract
Amendment/
Whitman,
Requardt &
Associates
(Ocean
View and
Holts
Landing
SSD)

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the County Engineering Department, and contingent upon the receipt of approval from the Delaware Department of Natural Resources and Environmental Control, that the Sussex County Council authorizes its President to execute Amendment No. 3 to its Contract with Whitman, Requardt and Associates, LLP, in the amount of \$859,000.00 to provide Construction Management Services for the Holts Landing, Ocean View and Regional Pump Station Construction Projects.

Motion Adopted: 5 Yea.

M 545 99
(continued)

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

Sound
System/
Council
Chambers

Mr. Dukes discussed the complaints he has received on the sound system in the Council Chambers. Mr. Dukes recommended that Mid-South Audio of Georgetown be contacted to see if anything can be done to improve the system. Mr. Stickels advised that he would contact Mid-South Audio.

Newspaper
Article

Mr. Dukes discussed the article in the News Journal on September 28, 1999, entitled "Sussex stung by growth plan". Mr. Dukes stated that he was surprised and stunned by the article. Mr. Dukes stated that the article contradicts a letter addressed to Robert Stickels from Jeffrey Bullock, Chairman, Cabinet Committee on State Planning Issues, dated May 30, 1997.

M 546 99
Recess

At 11:55 a.m., 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. Jones called Council back into session at 1:30 p.m.

Public
Hearing/
C/U
No. 1304

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 BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 3.18 ACRES, MORE OR LESS, OF A 38.8 ACRE TRACT" (Conditional Use No. 1304) filed on behalf of Curtis W. Steen, Jr. and Arleen Q. Steen. The Planning & Zoning Commission held a Public Hearing on this application on September 9, 1999, at which time the Commission recommended approval with 16 stipulations. The record of the Planning & Zoning Commission was entered into the record of the Sussex County Council. Mr. Parsons, Attorney, spoke on behalf of the applicant and submitted a list of 15 suggested stipulations to be considered by Council. (Stipulation #14 pertaining to fencing was omitted from the stipulations proposed by the Planning & Zoning Commission.) Public comments were heard. The Council found that comments in support of the application focused on the following: that there should be no adverse impact to property values in the area; that the borrow pit will benefit wildlife once it is completed; and that a need exists to correct a drainage problem on the site. The Council found that comments in opposition to the application focused on the following: that this is the third application for this site and that there has been no significant change in the application from the previous applications; that there will be increased truck traffic; that a borrow pit is not necessary to solve the drainage problem; that the borrow pit will negatively affect the area's water quality; that a major residential development is near the site; that a fence surrounding the borrow pit is not proposed; that the borrow pit is a danger to children; that property values will be adversely affected; that poultry run-off will flow into the borrow pit and that the application is a threat to the

Public
Hearing
(continued)

environment. It was noted that a petition with 170 signatures was received in opposition to the application prior to this Public Hearing; that letters from 97 people in opposition to the application were received prior to this Public Hearing; and that 37 people in opposition to the application signed their name on a sign-in sheet on this date.

Mr. Dukes had to leave the meeting prior to the close of the Public Hearing. Prior to leaving, Mr. Dukes expressed an interest in voting on this application and asked that action be deferred so that he will have the opportunity to vote. Mr. Dukes will listen to the taped proceedings of Public Hearing prior to the vote on the application. The Public Hearing was closed and action was deferred.

Public
Hearing
C/U
No. 1305

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 BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 9.97 ACRES, MORE OR LESS (Conditional Use No. 1305) filed on behalf of Short's Marine, Inc. The Planning & Zoning Commission held a Public Hearing on this application on September 9, 1999, at which time the Commission recommended approval of the application with 8 stipulations. The record of the Planning & Zoning Commission was entered into the record of the Sussex County Council. Mr. Ellingsworth and Mr. Griffin, Attorney, spoke on behalf of the application and submitted a list of proposed stipulations. There were no public comments in support of the application. Comments in opposition to the application focused on the following: that there will be increased traffic; that the site is poorly drained; that they are concerned about security lighting; and that the entrance to the site is at a dangerous curve. The Public Hearing was closed. Mr. Rogers advised that he would be abstaining from the vote due to a possible conflict of interest. For this reason, and due to the fact that Mr. Dukes was not present, action was deferred. It was noted that zoning applications require four voting Council members. It was further noted that Mr. Dukes would listen to the taped proceedings of the Public Hearing prior to the vote on the application.

Public
Hearing
C/U
No. 1306

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 MULTI-FAMILY DWELLING STRUCTURES (26 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 28.57 ACRES, MORE OR LESS (Conditional Use No. 1306) filed on behalf of DMV Partnership. The Planning & Zoning Commission held a Public Hearing on this application on September 9, 1999, at which time the Commission recommended approval with 8 stipulations. The record of the Planning & Zoning Commission was entered into the record of the Sussex County Council. Mr. Parsons, Attorney, and other representatives spoke on behalf of the applicant and submitted proposed

Public
Hearing
(continued)

stipulations. There were no public comments in support of the application. Public comments in opposition to the application focused on the following: that there will be increased traffic; that there is inadequate infrastructure to support the development; that the density requested is too high; that the project is not in character with the surrounding area; that Road 360 has flooding problems; that the site is environmentally sensitive due to the wetlands; and that the area is being over-developed. It was noted that 19 people in opposition to the application signed their name on the sign-in sheet on this date. The Public Hearing was closed and action was deferred.

Public
Hearing
C/U
No. 1307

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 24 MULTI-FAMILY RESIDENTIAL UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS" (Conditional Use No. 1307) filed on behalf of Gull Point Trust. The Planning & Zoning Commission held a Public Hearing on this application on September 9, 1999, at which time the Commission recommended approval with 7 stipulations. The record of the Planning & Zoning Commission was entered into the record of the Sussex County Council. Mr. Fuqua, Attorney, was present on behalf of the applicant and submitted suggested stipulations for Council's consideration. Public comments were heard in support of and in opposition to the application. Comments in opposition to the application focused on the following: that the project is not compatible with the residential character of the neighborhood; that the project will result in environmental degradation and the destruction of the habitat; that three-story units would be out of character with the area; that the traffic impact should be re-evaluated; and that the site may be an archaeological site. Many comments centered on the State Boat Ramp and Fishing Access Area that is adjacent to the project. Concern was expressed that the area would be closed as a result of this project. Mr. Bayard advised that although the State has a permanent easement from the applicant for the Boat Ramp, this application would have no effect on the boat ramp.

M 547 99
Close
Hearing
and Leave
Record
Open
(C/U
No. 1307)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Public Hearing on Conditional Use No. 1307 be closed and the record left open until the close of business on October 15, 1999, for the purpose of obtaining a copy of the permanent easement and a copy of the archaeological report from the State Office of Historic Preservation .

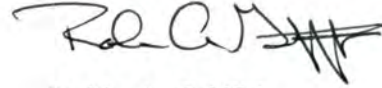
Motion Adopted: 4 Yea, 1 Absent.

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

M 548 99
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 6:40 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R.A. Griffith", with a stylized flourish at the end.

Robin A. Griffith
Clerk of the County Council