

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 12, 1999

Call to Order The regular meeting of the Sussex County Council was held Tuesday, October 12, 1999, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Finley B. Jones, Jr.	President
Lynn J. Rogers	Vice President
Dale R. Dukes	Member
George B. Cole	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 568 99 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve
Approve the Agenda, as presented.
Agenda

Motion Adopted: 5 Yea.

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

M 569 99 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve
Approve the minutes of the workshop held on September 22, 1999, and the
Minutes minutes of the previous meeting, dated October 5, 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- Mr. Bayard, County Attorney, read the following correspondence:
spondence

CARLTON MOORE, PRESIDENT, HISTORIC GEORGETOWN
ASSOCIATION, GEORGETOWN, DELAWARE.
RE: Letter regarding the State's plan to demolish the Brick Hotel located
on The Circle in Georgetown.

Corre-
spondence
(continued)

SUE H. BARLOW, PRESIDENT, GEORGETOWN HISTORICAL SOCIETY, GEORGETOWN, DELAWARE.

RE: Letter regarding the State's plan to demolish the Brick Hotel located on The Circle in Georgetown.

LINDA M. MARVEL, SEAFORD, DELAWARE.

RE: Letter expressing appreciation for the County's Community Development and Housing program and commending Mr. Phillips and Mr. McDowell who work in the Community Development and Housing Department.

Town of
Georgetown/
Payment in
Lieu of
Taxes

Mr. Stickels advised that each year the County's budget includes a payment in lieu of taxes to the Town of Georgetown. The County offers a payment in lieu of taxes to the Town to offset lost revenues for properties the County owns. A check in the amount of \$5,305.00 was presented to Town Manager David Baird representing this year's payment. This amount reflects a three percent increase over last year's payment.

Tide
Gauges/
South
Bethany
and
Fenwick
Island

Mayor Schaefer of South Bethany and Mayor Baunchalk of Fenwick Island were in attendance to seek Council's financial support in the amount of \$800 annually for the maintenance and operation of tide gauges in South Bethany and Fenwick Island. In May of this year, it was concluded that tide gauges were necessary to be installed in Fenwick Island and South Bethany in order to have exact measurements of the rise and fall of waters in the Little Assawoman Bay. As a result, tide gauges were installed at the Route 54 Bridge and at the end of W. 1st Street in South Bethany. DelDOT agreed to pick up the entire cost of the first year; \$11,000 for installation, operation and maintenance of the tide gauges. The operational costs have been estimated to be \$2,500 per year for each gauge. Since the project has been completely funded by DelDOT through September 30, 2000, funds will not be necessary until October 1, 2000. South Bethany, Fenwick Island, DNREC and DEMA have already committed themselves to supporting this project.

Mr. Dukes expressed concern that the County would be contributing to a service that only benefits a small sector of the County.

It was noted that the data collected by these gauges is critical for the communities of South Bethany and Fenwick Island and particularly, for DelDOT, since they need the flood plain elevations for the millions of dollars they will be spending on the renovation of Route 54 and the widening of Route 26 from the Assawoman Canal to Route 1. It was also noted that the tide gauges would be helpful in emergency evacuation situations in eastern Sussex County.

M 570 99
Authorize
Equal
Share of
Funding/
Tide
Gauges

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to provide an equal share of the funding of maintenance costs for two tide gauges in South Bethany and Fenwick Island, in an amount not to exceed \$800 annually.

Motion Adopted: 5 Yea.

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

This funding will be subject to approval annually.

Adminis-
trator's
Report

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

1. Southeast Coastal Planning Group Meeting

The Southeast Coastal Planning Group will meet on Wednesday, November 3, 1999, at 9:00 a.m. at the Fenwick Island Town Hall. The Southeast Coastal Planning Group consists of members of the Sussex County Council and elected officials from the towns of Fenwick Island, South Bethany, Bethany, Ocean View, Selbyville, Dagsboro, and Frankford. Planning Group meetings are open to the public.

2. Delaware Emergency Medical Services Oversight Council

Please be advised that I have been appointed by Governor Thomas R. Carper to serve on the Delaware Emergency Medical Services Oversight Council. The purpose of the Council is to review the standards set by House Bill No. 332 sponsored by Representative Bruce Ennis for improving on our EMS system, generally, and implementing the provisions as required by State law.

The first meeting for the Council will be Wednesday, October 20, 1999, at 7:00 p.m. in the main conference room of the Public Safety Building in Dover. These meetings are open to the general public.

3. Sixth Annual Sussex County Business and Education Conference

The Sixth Annual Sussex County Business and Education Conference will be held on Wednesday, October 27, 1999, from 7:30 a.m. to 12:30 p.m. at Delaware Technical & Community College, Georgetown, Delaware. Anyone interested in registering for the conference may call 855-1659. The cost of registration is \$15.00.

Pension
Fund
Committee
Meeting
Summary
and
Recommendations

Mr. Baker summarized the Pension Fund Committee meeting held on October 5, 1999. At the meeting, a report was reviewed showing the Pension Fund performance since 1994. During calendar year 1999, as of August 31, 1999, the fund returned 4.88 percent compared to comparable indices of 5.00 percent. As of August 31, 1999, the fund was valued at \$13,576,827; the fund has increased in value \$645,325 since January 1, 1999. The percentage increase since January 1, 1999 is 4.88 percent. Regarding the individual trustee returns, the Wilmington Trust return was 1.4 percent; Fidelity Investments was 3.52 percent, and the State of Delaware Fund was 9.5 percent.

The Committee expressed concern with the lagging returns of the Wilmington Trust Value Stock Fund for 1998 and 1999. It was noted that the Wilmington Trust Company is recommending that the \$1.7 Million invested in the Value Stock Fund be moved from the Rodney Square Value Stock Fund to the Federated Stock Trust Fund. Mr. Baker reviewed information regarding the Federated Stock Trust Fund, which invests in Blue Chip Stocks of high quality companies that appear to be temporarily undervalued. The fund is rated highly by Morningstar, with an overall 4 star rating and a 5 star rating over the last three years. Through August of 1999, the fund returned 6.9 percent; during 1998 – 17.3 percent; 1997 – 34.4 percent; and 1996 – 21.2 percent. The fund is also rated as a below average risk fund. It was noted that Wilmington Trust Company would receive no compensation for the Federated Stock Trust Fund. Mr. Baker advised that, although the Committee discussed the option of shifting the funds to the State of Delaware Fund, the Committee decided to recommend that the Wilmington Trust Value Stock Fund investments be shifted to the Federated Stock Trust Fund, with the condition that the performance of the Fund be reviewed in six months.

Mr. Cole questioned this investment strategy and expressed concern over shifting all of the money at one time instead of phasing it in. Mr. Cole asked Mr. Baker to consult with the County's financial advisors as to what the better investment strategy would be – dollar cost averages as opposed to shifting the money all at one time.

M 571 99
Approve
Shifting of
Funds/
WTC
Stock
Funds

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, that the Sussex County Council approves the Pension Fund Committee's recommendation to shift funds invested with the Rodney Square Value Stock Fund to the Federated Stock Trust Fund.

Motion Adopted: 5 Yea.

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

Pension
Fund
Committee
Meeting
Summary
and
Recommendations
(continued)

Mr. Baker discussed the County's actuarial report. As noted in the report, the recommended contribution is 8.72 percent, a .9 percent decrease from 1998. The 8.72 percent contribution rate is incorporated in the Fiscal 2000 Budget. As of January 1, 1999, the unfunded accrued liability was \$1,959,170 and the fund was 87.1 percent funded. Mr. Baker noted the tremendous progress that has been made during the last few years; as of January 1, 1995, the unfunded liability was \$6,086,305, and the fund was only 48.9 percent funded.

Mr. Baker pointed out that the actuarial report also noted a proposed change for dispatchers and paramedics for unreduced retirement benefits with 25 years of service, as opposed to 30 years of service. The report estimates an increase in pension contribution of about 2.8 percent for those two departments if that change is made. The estimated cost, based on the Fiscal 2000 Budget, of the increased contribution would be \$75,239. With a State contribution of 60 percent toward the paramedic portion, that contribution cost increase to the County would be \$37,756 per year. Mr. Baker noted that the unfunded pension liability would increase \$310,686 as a result of this change. A separate report was reviewed which noted the estimated cost of the 25-year retirement proposal for paramedics and dispatchers, in present day dollars, to be approximately \$182,000. This analysis took into account additional group hospital costs, along with vision and dental costs, for the proposed plan, as well as estimated savings and salary costs for five years of early retirement. Another report noted that, based on a 42-hour work week, paramedics and dispatchers would work 54,600 hours during a 25-year career. A 35-hour per week County employee would work the same number of hours during a 30-year career. The mental and physical stress related to this type of work, and the shiftwork and holiday work involved, was also noted. Mr. Baker stated that the Committee is recommending that the County Council consider offering a 25-year retirement, at any age, option for paramedics and dispatchers. It was noted that State approval for participation in the paramedic portion of this cost will be necessary. In addition, it will be necessary to amend the pension ordinance through the public hearing process. Mr. Baker advised that funding could be incorporated in the Fiscal 2001 Budget, if approved. Council expressed no opposition to this proposal and it was the consensus of Council that the issue be investigated further.

Mr. Baker reported that the Committee discussed limiting pension amount calculations to 30 years of service for new County employees. The Committee also discussed limiting the pension calculation to 25 years of service for paramedics and dispatchers. For current pension calculations, the number of years of service is not limited. Mr. Dennis Cordrey, Personnel Director, will review these proposals with Ms. Susan Weidman, Esquire, and report back to the Committee and County Council.

Pension
Fund
Committee
Meeting
Summary
and
Recommendations
(continued)

Mr. Baker reported that the Committee also discussed allowing pensioners to work part-time as County employees. This would be especially helpful during busy periods in County offices. The knowledge and experience of these former employees could be utilized to help out on an as needed basis. The Committee is recommending that the County Council consider authorizing pensioners to work on a part-time basis, limited to 10 hours per week and 520 hours per year. It was the consensus of Council that an ordinance be drafted to permit pensioners to work part-time as County employees, as proposed. It was noted that this program would exclude elected officials.

Mr. Baker discussed the County's Fiscal 2000 pension contribution. The Fiscal 2000 contribution includes extra funding to fully fund the Pension Fund within three years. Mr. Stickels noted that, in addition to the County's annual contribution, an extra contribution in the amount of \$1 Million will be made to the Pension Fund in this calendar year. Mr. Baker advised that, based on the past performance of the County's three pension fund trustees, the Committee recommended that the Fiscal 2000 contribution be invested with the State of Delaware Local Government Retirement Investment Pool.

M 572 99
Approve
Fiscal
2000
Pension
Fund
Contri-
bution

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council accepts the Pension Fund Committee's recommendation to invest the Fiscal 2000 pension fund contribution, which will include funding to reduce the pension fund unfunded liability to zero within three years, with the State of Delaware Local Government Retirement Investment Pool.

Motion Adopted: 5 Yea.

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

Pension
Fund
Committee
(continued)

Mr. Baker discussed the Line of Credit that the County currently has with the Wilmington Trust Company. The Line of Credit is a temporary loan that the County has to help finance various sewer and water projects. The Line of Credit has a maximum amount of \$25,000,000; there is currently \$3,157,000 outstanding on the Line of Credit. The Line of Credit is structured in two parts; \$2,626,000 is outstanding with an interest rate of 5.28 percent and \$531,000 is outstanding with an interest rate of 6.35 percent. In an effort to obtain a lower interest rate, Mr. Baker recommended that the County rebid its Line of Credit and revise the structure of the Line of Credit. With Council's approval, proposals to bid will be offered to local banks. Once the proposals have been received, Mr. Baker will report back to Council with a recommendation.

M 573 99
Authorize
Finance
Director
to Obtain
Bids for
Line of
Credit

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council authorizes the Finance Director to obtain bids for a Line of Credit for a maximum amount of \$25,000,000 in anticipation of issuing bonds for the construction of and/or improvements to various sewer and/or water systems serving Sussex County, Delaware.

Motion Adopted: 5 Yea.

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

C/U
No. 1304
(Curtis W.
Steen, Jr.
and
Arleen Q.
Steen)

Conditional Use No. 1304 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" filed on behalf of Curtis W. Steen, Jr. and Arleen Q. Steen was discussed. A Public Hearing was held on this application on September 28, 1999 at which time the Public Hearing was closed and action was deferred. Councilman Dukes had to leave the meeting prior to the conclusion of the Public Hearing. Prior to leaving, he expressed his desire to vote on the application. Councilman Dukes advised that, since that time, he has reviewed the record of the Public Hearing, including the taped proceedings. It was noted that the Planning and Zoning Commission recommended approval of this application with sixteen stipulations.

M 574 99
Adopt
Proposed
Ordinance
(C/U
No. 1304)
Denied

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt 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, with the following conditions:

1. The area of the property to be set aside for the Conditional Use shall be limited to 3.18 acres of the applicant's 38.8 acre tract, of which 2.0 acres shall be utilized for the borrow pit and 1.18 acres shall be utilized for an access roadway.
2. The location of the 2.0 acres borrow pit and 1.18 acres access roadway shall be exactly where the survey submitted with the application has them located.

M 574 99
(continued)

3. The notes entitled “General Specifications, Construction Sequence & Conditions” on the survey are conditions that must be followed by the applicant.
4. Hours of operation of excavating, extracting of soil and trucking activities shall be from 7:30 a.m. until 4:40 p.m. Monday through Friday, and on Saturday from 7:30 a.m. until 12:00 noon. There shall be no Sunday hours.
5. Only one operator shall be allowed to work the site at one time.
6. There shall be no more than 14 loads hauled from the site daily.
7. There shall be no identifying signs posted at the entrance.
8. The maximum term of this Conditional Use shall be 3 years.
9. The owners must comply with all County and State erosion and sedimentation control, and stormwater management regulations.
10. Final site plans, including all pit side slopes, excavation phasing and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to commencement of operations.
11. No materials may be brought from off the site for processing, mixing or similar purposes.
12. All County, State, and Federal required permits shall be obtained.
13. The maximum depth at the center of the borrow pit shall be 20 feet.
14. The borrow pit shall be secured with security fencing, not less than 8 feet tall, topped with barbed-wire or ribbon wire. Danger and warning signs shall be installed on the fence spaced every 100-feet.
15. The first 50 feet of the access road from Road 331 into the site shall have a crusher run topping to the specification of the Sussex Conservation District for construction entrances.
16. A water truck shall be utilized to control dust when necessary.

Motion Denied: 3 Nay, 2 Yea.

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

Reasons
for
Vote

Mr. Phillips explained his reasons for voting in favor of the application: that there is a 40 acre borrow pit located near his home that he feels is an asset to the value of his property; that he, along with his family, enjoys the borrow pit; that the area is a beautiful place where wildlife can be found; and that the proposed stipulations address the concerns of the neighborhood.

Mr. Rogers explained his reasons for voting in favor of the application: that approval of numerous agencies are required in addition to County Council approval; that the proposed stipulations address the concerns of the neighborhood; and that, if approved, the Planning & Zoning Department will closely monitor the situation and enforce the stipulations that are imposed.

Council members provided the following reasons for their denial of the application: that the applicant did not give sufficient reason for needing the borrow pit; that safety of children in the area is a concern; that the borrow pit would be located in a high-density residential area; that the borrow pit is not beneficial to area property owners; that the size of the pit is a nuisance; that the pit would be located close to chicken houses and that nutrient run-off may impact the water in the pond and wells in the area; that the Sussex Conservation District cautions against this application; and that this application is not for the general convenience and welfare of the citizens of Sussex County.

C/U
No. 1305
(Shorts
Marine,
Inc.)

Conditional Use No. 1305 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" filed on behalf of Short's Marine, Inc. was discussed. A Public Hearing was held on this application on September 28, 1999 at which time the Public Hearing was closed and action was deferred. Councilman Dukes was not present during this Public Hearing. Councilman Dukes advised that, since that time, he has reviewed the record of the Public Hearing, including the taped proceedings. The Planning and Zoning Commission recommended approval of this application with the following stipulations:

1. The site plan shall be subject to all appropriate agency approvals prior to review and approval by the Commission.
2. The storage facility will be open during daylight hours only.
3. The perimeter of the site shall be fenced with a 7-foot high chain-linked type of fencing with rolled wire across the top.

C/U
No. 1305
(continued)

4. No maintenance of boats or vehicles shall be performed on the site.
5. All persons visiting the site shall be accompanied by a Short's Marine employee.
6. The only structure to be located on the site will be a 10-foot by 14-foot shed.
7. Security lighting shall be provided on the site using mercury vapor lights that are directed away from neighboring properties.
8. Travel routes from the commercial location of Short's Marine, Inc. to the site shall be Route 24 and Route 23. Road 298 shall not be utilized due to the elementary school and the residential character of the area along Road 298 and Road 299 to Route 24.

Council discussed amending Stipulation No 3 to include a clause at the end reading "with the Route 24 side planted in trees".

M 575 99
Adopt
Ordinance
No.
1343
(C/U
No. 1305)

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1343 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., with the following stipulations:

1. The site plan shall be subject to all appropriate agency approvals prior to review and approval by the Commission.
2. The storage facility will be open during daylight hours only.
3. The perimeter of the site shall be fenced with a 7-foot high chain-linked type of fencing with rolled wire across the top, with the Route 24 side planted in trees.
4. No maintenance of boats or vehicles shall be performed on the site.
5. All persons visiting the site shall be accompanied by a Short's Marine employee.
6. The only structure to be located on the site will be a 10-foot by 14-foot shed.
7. Security lighting shall be provided on the site using mercury vapor lights that are directed away from neighboring properties.

M 575 99
(continued)

8. Travel routes from the commercial location of Short's Marine, Inc. to the site shall be Route 24 and Route 23. Road 298 shall not be utilized due to the elementary school and the residential character of the area along Road 298 and Road 299 to Route 24.

Motion Adopted: 4 Yea, 1 Abstention.

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

Mr. Rogers did not participate in the discussion of or in the vote on this application due to a possible conflict of interest.

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

Findings
of Fact

1. The applicant established by substantial evidence that the proposed use is of a public or semi-public nature and will serve the need and convenience of the surrounding area by providing additional boat storage capacity for local communities, residents and seasonal residents, where no additional storage exists presently.
2. With the eight stipulations in place, the impact of this use on the immediate area will be negligible.
3. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
4. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

C/U
No. 1306
DMV
Partnership

Conditional Use No. 1306 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" filed on behalf of DMV Partnership was discussed. A Public Hearing was held on this application on September 28, 1999, at which time the Public Hearing was closed and action was deferred. Councilman Dukes was not present during the Public Hearing. Councilman Dukes advised that, since that time, he has reviewed the record of the Public Hearing, including the taped proceedings. The Planning and Zoning Commission recommended approval of this application with eight stipulations.

C/U
No. 1306
(continued)

A discussion was held regarding the number of units that can be built on the parcel. Mr. Lank, Director of Planning and Zoning, advised that although the density calculation would permit 240 units, the applicant is requesting a Conditional Use permit for 26 units. It was noted that the Planning & Zoning Commission approved the application for an amount not to exceed 15 units.

Mr. Cole proposed that Council consider a Motion to approve the application with a maximum number of units not to exceed 12.

Mr. Stickels questioned the area of the boundaries of the Green Lawsuit Settlement and further, what sanitary sewer district this project would be located in. Further questions developed as to whether the County's regulations controlling sanitary sewer connections in the North Bethany Sanitary Sewer District affect this application.

Further discussion was delayed until information could be obtained from the Engineering Department.

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 MOBILE HOME PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 20.31 ACRES, MORE OR LESS" (Conditional Use No. 1316) filed on behalf of Walkers Mill, L.L.C. 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 MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.003 ACRES, MORE OR LESS" (Conditional Use No. 1317) filed on behalf of Donald W. Hearn. The Proposed Ordinance will be advertised for Public Hearing.

Audio
System

Mr. Dukes discussed the problems with the audio system in the Council Chambers. It was noted that Mid-South Audio has not looked at the system yet. Mr. Dukes requested permission to have someone come look at and evaluate the audio system. There was no opposition to Mr. Dukes' request.

M 576 99
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500.00 from Mr. Jones' Councilmanic Account to Greenwood CHEER for the purchase of a new building (the "Home Cookery" Restaurant building located on Route 13 in Greenwood).

M 576 99
(continued)

Motion Adopted: 5 Yea.

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

DMV
Partnership

The discussion on the application of DMV Partnership (C/U No. 1306) was deferred until after the lunch recess.

M 577 99
Recess

At 12:15 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

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

C/U
No. 1306
(DMV
Partnership)

The discussion on the application of DMV Partnership (C/U No. 1306) ensued.

Mr. Lank read into the record a letter from the Sussex County Engineering Department stating that the property owned by DMV Partnership is in the North Bethany Sanitary Sewer District.

Mr. Bayard reviewed the Sussex County Code, Article XVI, Section 110-105 through 110-109. This section of the Code controls sanitary sewer connections in the North Bethany Sanitary Sewer District and permits no more than four equivalent dwelling units per gross acre on all presently undeveloped land in the district. (Gross acre is defined as "anything other than tidal wetlands or subaqueous lands"). It was noted that this reduces the amount of gross acres in the DMV Partnership application; more specifically, 16.58 acres are not part of the sewer density calculation which leaves 12 acres remaining. Based on the calculation of 4 units available per acre, the DMV Partnership application qualifies for 48 units.

Mr. Bayard further advised that Section 108 states that this legislation was not intended to prevent expansion of the sewer district and that this Ordinance should not be used as a rationale for rezoning. The Ordinance is limited to the purpose of calculating EDU's in the North Bethany area and limiting that calculation to 4 units per gross acre.

Mr. Dukes stated that it seems the main concern is to keep the project out of the wetlands. Mr. Dukes suggested that Council permit the applicant to build up to 20 units as long as they remain out of the wetland area. Mr. Dukes further stated that he did not feel that density was a problem as long as the project stayed in the uplands. Mr. Phillips expressed his support of Mr. Dukes' comments.

M 578 99
Adopt
Proposed
Ordinance
(C/U
No. 1306)
Motion
Withdrawn

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt 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, with the eight stipulations as recommended by the Planning & Zoning Commission.

The Motion was withdrawn.

Council discussed the stipulations recommended by the Planning & Zoning Commission. Council decided to vote on the approval/denial of Stipulation No. 1 – "The maximum number of units shall not exceed 15 units."

M 579 99
Approve
Stipulation
No. 1
(C/U
No. 1306)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to approve Stipulation No. 1 to Conditional Use No. 1306, as recommended by the Planning & Zoning Commission.

Motion Adopted: 3 Yea, 2 Nay.

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

M 580 99
Adopt
Ordinance
No. 1344
(C/U
No. 1306)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1344 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, with the following stipulations:

1. The maximum number of units shall not exceed 15 units.
2. Construction shall, to the extent possible, preserve the existing woodlands.
3. The project shall be served by a County sewer district.
4. The project shall be served with central water from the Sussex Shores Water Company or other public water company.

M 580 99
(continued)

5. No buildings shall be higher than 42-feet, or longer than 165-feet, and the minimum setback between buildings shall be 40-feet.
6. Development of the property shall conform to all County and State erosion and sedimentation control, and stormwater management regulations.
7. All construction shall be limited to upland areas, not wetlands, except for the access drive to Road 360.
8. The final site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

Motion Adopted: 5 Yea.

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

Findings
of Fact

The Council found that the conditional use is appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the site is properly zoned for single family residential housing and is located in a development district as defined by the Comprehensive Land Use Plan.
2. County ordinance prohibits development of any sort in wetlands as defined by DNREC and in subaqueous lands.
3. The density recommended by the Planning & Zoning Commission is significantly less than that permitted by County Ordinance § 110-105 et. seq.
4. With the conditions recommended by the Commission, expressed concerns about various impacts of the proposed use have been substantively addressed, and by those conditions, those impacts have been reduced to the equivalent or less than any recent single family detached residential development in the North Bethany area.
5. The proposed use, with the stipulations previously listed, will be consistent with the purposes and goals of the Comprehensive Land Use Plan.
6. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Public
Hearing/
Proposed
Ordinance
Relating
to Street
Design
Standards

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, THE CODE OF SUSSEX COUNTY, RELATING TO STREET DESIGN STANDARDS". The Proposed Ordinance allows for a lesser street design standard for major subdivisions of four (4) lots or less involving new streets. Mr. Lank, Director of the Planning & Zoning Department, advised that the County Engineering Department and the Sussex Conservation District have no objection to the proposed use of crusher-run, and that sub-grades for streets shall be required to be tested and approved by the Public Works Department. On September 23, 1999, the Planning & Zoning Commission held a Public Hearing on this Proposed Ordinance and recommended that the Proposed Ordinance be approved. Mr. McCabe, Director of Public Works, was in attendance to explain the background of this proposed amendment. Mr. McCabe explained that the current minimum design requirement is six inches of approved fill; that there have been a lot of problems with road standards; that roads in subdivisions are not holding up; and that there have been a lot of requests for suburban community improvement projects. Public comments were heard that government should not legislate the improvement of roads and that the Proposed Ordinance does not mention road width. It was noted that road width is addressed by another Ordinance within the Sussex County Code. The Public Hearing was closed.

M 581 99
Adopt
Ordinance
No. 1345

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1345 entitled "AN ORDINANCE TO AMEND CHAPTER 99, THE CODE OF SUSSEX COUNTY, RELATING TO STREET DESIGN STANDARDS".

Motion Adopted: 5 Yea.

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

Public
Hearing/
Proposed
Ordinance
Relating
to Place-
ment of
Mobile
Homes

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ENTITLED "ZONING" TO AMEND PROVISIONS RELATING TO PLACEMENT OF MOBILE HOMES FOR EMERGENCY OR HARDSHIP SITUATIONS". This Ordinance will allow the Director of Planning & Zoning to grant extensions to special use exceptions granted for placement of mobile homes for hardship or emergency situations, if the applicant can show evidence from a doctor that the hardship or emergency situation still exists. On September 23, 1999, the Planning & Zoning Commission held a Public Hearing on this Proposed Ordinance and recommended that the Proposed Ordinance be approved. There were no public comments and the Public Hearing was closed.

M 582 99
Adopt
Ordinance
No. 1346

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 1346 entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ENTITLED "ZONING" TO AMEND PROVISIONS RELATING TO PLACEMENT OF MOBILE HOMES FOR EMERGENCY OR HARDSHIP SITUATIONS".

Motion Adopted: 4 Yea, 1 Absent.

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

Mr. Phillips was not in attendance at the time the vote was taken.

Public
Hearing/
Proposed
Ordinance
Relating
to the
Conservation
Zone

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ENTITLED "ZONING", TO AMEND PROVISIONS RELATIVE TO THE CONSERVATION ZONE, TO AMEND PROVISIONS RELATING TO THE MINIMUM LOT SIZE WITHIN THE CONSERVATION ZONE, TO AMEND PROVISIONS RELATING TO REVISING AND CLARIFYING THE LOCATION OF THE CONSERVATION ZONE, AND TO GENERALLY CLARIFY THE ORDINANCE". This Ordinance amends existing provisions relating to the conservation zone and provides a means of utilizing prepared maps to locate boundaries of the zone and increases the lot size from 1 acre to 2 acres in a conservation zone. On September 23, 1999, the Planning & Zoning Commission held a Public Hearing on this Proposed Ordinance at which time action was deferred so that the Commission could review the flood maps. Mr. Lank reported that the Commission's concerns focused on the two (2) acre lot size.

Public comments were heard that the two (2) acre lot size would be a hardship to landowners.

It was pointed out that the two (2) acre lot size in the conservation zone was recommended in the Land Use Plan.

A discussion was held on using the flood maps for the Conservation Zone delineation, as proposed by Mr. Lank. Public comments were heard that the area delineated by the flood maps is too large and that the majority of the County would be impacted if the entire flood plain is established as a conservation zone. Mr. Lank stated that the flood maps are the only map source available for identifying the boundaries of the conservation zone.

Public Hearing Relating to the Conservation Zone (continued)

Comments were heard in support of the Proposed Ordinance. Comments included: (1) the Proposed Ordinance is desperately needed due to development impacts on the Inland Bays and (2) the flood plain maps are a wise way to go since the Federal Government periodically updates the maps.

Mr. Cole requested that the record remain open for the development of a map that uses (1) current criteria for the conservation zone and (2) two (2) acre minimum lot size. Mr. Jones concurred that the record should remain open for a review of the record and recommendation of the Land Use Advisory Committee.

The Public Hearing was closed and action was deferred to await a recommendation from the Planning & Zoning Commission; however, the Public Hearing record will be left open for written comments until November 1, 1999.

Public Hearing/ Proposed Ordinance Relating to Notice Requirements/ Subdivision Alteration or Addition

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AMENDING CHAPTER 99, SECTION 13, OF THE SUSSEX COUNTY CODE, RELATING TO THE NOTICE REQUIREMENTS TO BE GIVEN OWNERS WITHIN SUBDIVISIONS PRIOR TO ALTERATION OR ADDITION". On September 23, 1999, the Planning & Zoning Commission held a Public Hearing on this Proposed Ordinance at which time action was deferred.

It was noted that during a Public Hearing several months ago on an application for a major subdivision, a question was raised that created a concern about the wording in the County's subdivision ordinance. The question was that if an applicant can't prove that all property owners have been made aware of the amendment or alteration to a subdivision and that the property owners have no objection, that the applicant would not be permitted to proceed with the public hearing process.

This proposed amendment to the subdivision ordinance provides for the following changes: (1) corrects a grammatical error in Subsection A, and (2) deletes the requirements that all owners in the previously subdivided plat consent to proposed alterations or changes.

Public comments were heard. Concern was expressed that a percentage of approval of property owners should be considered instead of deleting the approval requirement altogether.

Mr. Witsil presented to Council for consideration a draft ordinance that (1) would require that two-thirds of the lot owners within a subdivision give consent to any proposed alteration or change; (2) would require the subdivider to provide evidence of notification to all property owners of the proposed alteration or change; and (3) would require the subdivider

Public
Hearing
(continued)

to design alterations or changes that are of substantially the same character as the existing subdivision. It was noted that Mr. Witsil's draft ordinance would require that the public hearing process start over again.

Public comments were heard in opposition to the 2/3 vote.

The Public Hearing was closed and action was deferred to await a recommendation from the Planning & Zoning Commission.

M 583 99
Adjourn

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to adjourn at 4:14 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council