

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE - OCTOBER 19, 1999

Call to
Order

The regular meeting of the Sussex County Council was held Tuesday, October 19, 1999, at 10:30 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
George B. Cole	Member
Dale R. Dukes	Member
Vance C. Phillips	Member
Robert L. Stickels	County Administrator
David B. Baker	Finance Director
Eugene H. Bayard	County Attorney

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

M 584 99
Approve
Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the Agenda 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

Corre-
spondence

Mr. Bayard read the following correspondence:

MICHAEL MILLIGAN, MANAGER, THE SUSSEX STARS.
RE: Letter in appreciation of grant to Sussex Stars ASA Softball Team.

VIKKI BLADES, SECRETARY, MILLSBORO LITTLE LEAGUE,
MILLSBORO, DELAWARE.
RE: Card in appreciation of grant to Millsboro Little League.

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW
JERSEY.

Corre-
spondence
(continued)

RE: Notice of Commission Meeting and Public Hearing (one application pertaining to Sussex County involving a project by Allen Family Foods, Inc., Harbeson, Delaware, to re-rate the applicant's existing 0.91 mgd wastewater treatment plant to an average monthly flow of 1.25 mgd).

WILLIAM C. PRESS, CAMBRIDGE, MARYLAND.

RE: Letter in appreciation of efficient and appropriate care provided to him by Sussex County Paramedics on August 29, 1999, while visiting his father in the Lewes area. (It has since been determined that the Paramedics on duty were John Schmitt and Jeff Cox.)

James
Farm
Request

Mr. Stickels advised that a letter has been received from Dr. Bruce A. Richards, Executive Director, Center for the Inland Bays, requesting the County Council's consideration in including the east side of the James Farm as part of the original occupation agreement now in effect for the west side. To date, the Center has improved the west side of the property to include marked hiking trails, an observation platform, boardwalk, tree and habitat restoration, a well, fencing, and a landscaped entrance. Other improvements still to come include another observation platform, informational displays, and 2,000 additional trees to be planted. Of the ten original restoration efforts established for the west side of the James Farm tract on September 8, 1998, all but two have been completed.

Dr. Richards and Mr. Jim Alderman of the Center for the Inland Bays were present to discuss the request to extend the Center's agreement with the County to the east side of the James Farm. Plans for the east side would include reforestation of the 20-acre open field, trails, access to the marsh via a boardwalk, and an observation/study area to be used for educational programs and the public. Mr. Alderman stated that the James Farm is used frequently, and the property would be enhanced with the addition of improvements to the east side. Dr. Richards advised that the Center for the Inland Bays has a liability policy in effect for the west side of the James Farm and would obtain liability insurance for the east side as well. Mr. Cole questioned the reforestation of the 20-acre open field. Mr. Alderman responded that the forest usually provides a better habitat for birds, deer, etc., but he would be consulting with other agencies, such as the Fish and Wildlife Service, before making a final determination.

James
Farm
Request
(continued)

It was the consensus of Council that the Center for the Inland Bays work on a plan of action for improvements to the east side of the James Farm over the winter months, consulting with other agencies with respect to projects which may be planned, and present said plan to Council at a future date. Mr. Bayard suggested that a draft agreement be prepared for Council's consideration at the same time.

DelDOT
Five-Year
Capital
Improve-
ment
Program

Mr. Stickels discussed the Delaware Department of Transportation (DelDOT) Five-Year Capital Improvement Program (CIP). Funding for road improvements in the amount of \$68 million was initially proposed for Sussex County over the next five years. However, in response to the County's requests at the September 23, 1999, public participation meeting, additional monies in excess of \$50 million may be allocated by the State. A letter dated October 5, 1999, to Mr. Stickels from B. J. Van Kavelaar, Assistant FM&B Director, Budgets and Programs, Delaware Department of Transportation, has been received regarding the State's FY 2001-2006 Capital Improvement Program stating, in part, as follows:

- Construction is underway for the eastern portion of SR 26. The Department will propose \$18 million be made available in the FY 2001-2006 CIP for the SR 26 improvements and another \$30 million be available to implement the SR 1 "Grid" improvements. Concept development on other east/west routes, including SR 404, SR 36, SR 17, SR 24, and more western portion of SR 54, will continue in much the same manner as SR 26 was developed.
- SR 54 near Fenwick will be advertised for construction next summer. Pavement rehabilitation and shoulder resurfacing is scheduled for US 113 from the Maryland State line to Georgetown; SR 404 from Maryland to Bridgeville, from SR 30 to S 261 and through the City of Lewes; and SR 17 from SR 20 to SR 26. In Program Development, the State will be working with the County and local transportation solutions along other east/west corridors, including SR 404, SR 24, SR 36, SR 17, and SR 20.
- Intersections being advanced to construction are SR 17 and SR 26; SR 404 and US 13; SR 24 and SR 5; and S 246 and S 244.

DeIDOT
Five-Year
Capital
Improve-
ment
Program
(continued)

- The State will continue working with the County and all of the towns along US 13 and US 113 for corridor preservation measures. The CIP has programmed approximately \$5 million annually for Corridor Preservation and Access Management.
- As the design for the SR 1/16 interchange is developed, the estimate of \$8 million may change. Initial comments indicate this estimate seems too high.
- Regarding the tar and chip application process, the State recognizes that it is not the most desirable hard surface for heavily traveled roads, but it is the most economical for the lesser traveled roads, described as roads of less than 1,500 vehicles per day. For FY 2000, the General Assembly has authorized \$2 million per year to convert the more heavily traveled surface treated roads to hard surface.
- All speakers at the September public meetings should receive a copy of the draft Capital Improvement Program in mid-December, as well as the final adopted CIP in mid-March.

Mr. Jones commented that DeIDOT should revisit the 1,500 vehicles per day for secondary roads as a determining factor regarding hot-mix or tar and chip surface treatment, a number that seems totally unreasonable. Mr. Jones also complimented Mr. Stickels on his presentation at the September 23, 1999, public participation meeting, stating that it is evident Mr. Stickels' remarks impacted the State's recommendations.

Surplus
County
Properties

Mr. Stickels advised that for the purpose of removing assets from the County's inventory which are of no further use, the County owns three properties in Georgetown, known as the Bramhall Building, Salad Shed, and Engineering Building, which need to be declared surplus. Due to construction of the County Administrative Building and purchase of the West Complex, the County no longer has a need for these properties. Negotiations are ongoing for purchase of the properties. However, should negotiations be unsuccessful, advertising for sealed bids or public auction of the properties is proposed to take place after January 1, 2000.

M 585 99
Declare
County
Properties
as Surplus

A Motion was made by Mr. Dukes, seconded by Mr. Cole, that the County properties located in the Town of Georgetown known as the Bramhall Building, located at 11 South Race Street; the Salad Shed property, located at Es South Race Street; and the Engineering Building property, located at 8 North Race Street, be declared as surplus.

Motion Adopted: 5 Yea.

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

County
Adminis-
trator's
Report

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

1. State of Delaware - Sussex County Courthouse

Effective 8:30 a.m., Wednesday, October 20, 1999, the State of Delaware will be implementing one-way entrance and exit to the Sussex County Courthouse. The purpose of this one-way entrance and exit is to enhance security for all Courthouse staff and visitors to the Courthouse during normal business hours. The one-way entrance/exit will be temporarily located at The Circle entrance. It will be operated by Capitol Security officers and a metal detector will be in place at the station. The policies and procedures for entry to and exit from the Courthouse will be determined by the Capitol Police and will be in line with Kent and New Castle County Courthouses.

Authorized card access holders will need their access card to enter and exit the Courthouse through the employees' entrance. Only authorized cardholders will be permitted to use the employees' entrance. All visitors to the Courthouse must use The Circle door to enter and exit the Courthouse unless Capitol Police or Capitol Security permit otherwise. Authorized cardholders will have the option of using The Circle door, but will adhere to Capitol Police policies if they elect to use The Circle entrance.

County
Adminis-
trator's
Report
(continued)

3. "Make a Difference Day"

On Friday, October 22, 1999, Sussex County employees will be assisting the residents of Lucas Development in the Milton area as part of national "Make a Difference Day." County employees will assist in the community-wide cleanup as part of the Strong Communities Initiative. In addition to County employees, the Delaware Department of Transportation and First State Community Action will also be participating. Anyone wishing to volunteer their time should be at Lucas Development at 8:30 a.m. on Friday, October 22. Lucas Development is 1.9 miles north of the Route 5 and Route 404 intersection. The Department of Natural Resources and the SPCA have also been requested to assist in the community-wide cleanup.

This will be the second year the County employees have assisted. Last year, the West Rehoboth community received County and State assistance.

4. House Resolution 32 Working Committee Meeting

The working committee of House Resolution 32 will meet Friday, October 22, beginning at 9:00 a.m. in the Conference Room of the Sussex County Administrative Offices, West Complex, 9 South DuPont Highway, Georgetown. Items on the agenda include:

- Discussion of regulation of private utilities providing wastewater treatment services
- Density limits
- Open space requirements

The working committee meetings are open to the public.

Lucas
Develop-
ment

The Reverend B. Leslie James, Community Development Specialist, First State Community Action Agency, addressed Council regarding "Make a Difference Day" and the Lucas Development cleanup planned for Friday,

Lucas
Develop-
ment
(continued)

October 22, 1999. Community volunteers will be assisting the County and State agencies in this effort. Reverend James noted that the road leading into Lucas Development has been a source of frustration for not only those who live in the community, but State Police and emergency and delivery vehicles as well. First State Community Action has taken care of filling the massive potholes and having the road graded. The next step is to apply the crusher run. Additional funds are needed to complete the project and secure dumpsters for the area. Reverend James stated that any assistance would be greatly appreciated and thanked Council for their continuing support. (This request was addressed later in the Council meeting.)

Old
Business/
C/U
No. 1307

Council discussed a 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 and Zoning Commission recommended approval of this application on September 23, 1999. A Public Hearing was held by the County Council on this application on September 28, 1999, at which time action was deferred. The Public Hearing was 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 Agreement for the State Boat Ramp and a copy of the archaeological report from the State Historic Preservation Office. Both documents have been received and made a part of the record. The Public Hearing record was closed.

M 586 99
Adopt
Ordinance
No. 1347
(C/U
No. 1307)

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt the Ordinance No. 1347 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, with the

M 586 99
(continued)

following conditions:

1. Central sewer service shall be provided in accordance with applicable regulations of the State Department of Natural Resources and Environmental Control and the County Engineering Department.
2. Central water service shall be provided in compliance with applicable regulations of the State Department of Natural Resources and Environmental Control, the Office of the State Fire Marshal, the Division of Public Health, and the County Engineering Department.
3. Stormwater management and erosion and sedimentation control plans shall be subject to all State and County regulations.
4. The maximum number of units shall not exceed 24 units.
5. All amenities, including the community pool and pool house, shall be completed prior to construction of the 13th residential unit.
6. The open space depicted on the site plan shall be subject to no future development.
7. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

Motion Adopted: 4 Yea, 1 Nay.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Nay;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, 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 an addition to an existing multi-family development and that this

Findings
of Fact
(continued)

proposed use was earlier approved as Conditional Use No. 1057. The only difference between this application and Conditional Use No. 1057 is the elimination of a planned marina in the newer site plan.

2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan and, as such, will have no adverse impact of any sort.
3. The findings of fact and recommendations of the Planning and Zoning Commission and the record of the hearing on Conditional Use No. 1057 are incorporated herein.

Conflict
of Interest

Mr. Rogers left the meeting due to a conflict of interest with Change of Zone No. 1373, filed on behalf Craig Hudson and Joseph Hudson.

Old
Business/
C/Z
No. 1373

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.94 ACRES, MORE OR LESS" (Change of Zone No. 1373) filed on behalf of Craig Hudson and Joseph Hudson. A Public Hearing on this application was held on April 27, 1999, at which time action was deferred. The Planning and Zoning Commission recommended that Council defer action pending receipt of the County Engineering Department's sewer planning study for the area, which was scheduled for completion in July 1999. The Public Hearing was closed and the record was left open for this purpose. Council again discussed this application on May 11, 1999, for the purpose of considering the County Engineering Department's comments that since the application will require minimal wastewater facilities, they do not object to the use of an on-site septic system for up to three equivalent dwelling units. Further, the Department recommended that central wastewater service be considered if wastewater production increases due to a change of use or expansion of the operation. It was the consensus of Council that action remain deferred until the County Engineering Department's sewer planning study is complete.

Old
Business/
C/Z
No. 1373
(continued)

The County Engineering Department's sewer planning study pertinent to the area has been received and made a part of the record. The study revealed that there is capacity to serve the site with three equivalent dwelling units. The Public Hearing record was closed.

The Planning and Zoning Commission recommended denial of this application on October 14, 1999. It was the consensus of the Commission that the use would be more appropriate as a conditional use.

M 587 99
Adopt
Ordinance
No. 1348
(C/Z
No. 1373)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the Ordinance No. 1348 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6.94 ACRES, MORE OR LESS" (Change of Zone No. 1373) filed on behalf of Craig Hudson and Joseph Hudson.

Motion Adopted: 4 Yea, 1 Absent.

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

Councilman

Mr. Rogers returned to the meeting.

State of
Delaware
Senior
Citizen
School
Property
Tax Credit

Mr. Baker reported to Council on the status of the State of Delaware Senior Citizen School Property Tax Credit. The final application has been received from the State Secretary of Finance's Office and copies are available in the Sussex County Treasury Division. They will be distributed to all County libraries and an attempt will be made to deliver the applications to the senior centers throughout Sussex County. A copy of the application will also be available on the County's website.

To qualify for the tax credit, a taxpayer must be a full-time resident of Sussex County, own the dwelling for which the exemption is claimed,

State of
Delaware
Senior
Citizen
School
Property
Tax Credit
(continued)

and be 65 years of age by May 1, 1999. It should be noted that capitation and participating school taxes are included as part of the Tax Credit Program; however, vocational school taxes are not. There has also been some misunderstanding regarding mobile homes. To clarify this issue, Mr. Baker stated that the owners of mobile homes on rented land are eligible for the program.

To date, the Cape Henlopen, Indian River, Milford, and Seaford school districts have approved the property tax credit. The Delmar, Laurel, and Woodbridge school districts have until October 31, 1999, to advise of their participation in the program.

Council was also provided with summary sheets of the property tax assistance programs and water and sewer district relief programs currently available to the residents of Sussex County.

Mr. Baker stated that the Sussex County Treasury Division will have extended hours on Wednesday, November 3, and Wednesday, November 10, 1999, from 4:30 to 7:30 p.m. to accommodate the public. Anyone applying for the State of Delaware Senior Citizen School Property Tax Credit at the Treasury Division Office is asked to provide a copy of their driver's license, birth certificate, or other proof of age.

Change
Order/
Airport
Sewer
and Water
Project

Mr. Sapp, Project Engineer, discussed Change Order No. 1 for Sussex County Project No. 98-07, Airport Sewer and Water Installation. This project was made possible through a grant from the Delaware Economic Development Office (DEDO) in the amount of \$500,000. Change Order No. 1 is for additional paving adjacent to the construction area and has been approved by the DEDO.

M 588 99
Approve
Change
Order/
Airport
Sewer/Water
Project

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that based upon the recommendation of the Sussex County Engineering Department, the Sussex County Council approves Change Order No. 1 for Project No. 98-07, Sussex County Airport Sewer and Water Installation, in the amount of \$69,041.90, to increase the contract amount from \$366,768.00 to \$435,809.90.

M 588 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

Conditional
Acceptance/
Savannah's
Landing

Mr. Green, Director of Utility Construction, discussed granting Conditional Acceptance for Phase I (Agreement No. 141), Phase III, (Agreement No. 158), and Phase IV (Agreement No. 169) for Sussex County Project No. 81-04, Savannah's Landing, located in the Bethany Beach Sanitary Sewer District.

M 589 99
Grant
Conditional
Acceptance/
Savannah's
Landing,
Phases I,
III, and
IV

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, that based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, the Sussex County Council grant "Conditional Acceptance" for the wastewater facilities constructed in "Savannah's Landing, Phases I, III, and IV," located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Abstention.

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

DelDOT
Concern

Mr. Phillips stated that he has had some problems recently with the Delaware Department of Transportation (DelDOT) and the way the Department seems to be forcing its hand with property owners even before County Council has considered their request. Although DelDOT has the final approval in the entrance permit process, it is also their responsibility to provide alternatives to property owners when necessary. Mr. Phillips requested that the Memorandum of Understanding with DelDOT be reviewed to see if property owners could be afforded more authority with respect to what they do with their own property.

Condo-
lences

Mr. Cole requested that a sympathy card be sent to the family of William S. Green of Montgomery County, Maryland. As a second

Condo-
lences
(continued)

homeowner in Sussex County, Mr. Green was very much concerned with what was going on in the County and certainly had an impact over the years.

M 590 99
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$400.00 from Mr. Rogers' Councilmanic Account to First State Community Action Agency to complete the road project at Lucas Development as part of "Make a Difference Day."

Motion Adopted: 5 Yea.

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

M 591 99
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to adjourn at 12:56 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Susan W. Webb

Acting Clerk of the County Council