

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 23, 2001

Call to Order The regular meeting of the Sussex County Council was held Tuesday, October 23, 2001, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Eugene Bayard	County Attorney

M 603 01 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the Agenda
Approve for October 23, 2001, as distributed.
Agenda

Motion Adopted: 5 Yea.

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

M 604 01 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to approve the minutes of
Approve October 16, 2001, as distributed.
Minutes

Motion Adopted: 5 Yea.

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

Corre- Mr. Bayard read the following correspondence:
spondence

SCOTT COULBOURN, DIRECTOR, SEAFORD PARKS & RECREATION, CITY
OF SEAFORD, SEAFORD, DELAWARE.

RE: Letter to Councilman Dukes in appreciation of grant.

M 605 01 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt the
Adopt Proclamation entitled "PROCLAIMING TUESDAY, OCTOBER 23, 2001 AS A
Proclamation DAY TO HONOR CASA SAN FRANCISCO".

Motion Adopted: 5 Yea.

M 605 01
(continued)

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

Regional
Land Use
Planning
Meetings

Mr. Stickels advised that the Sussex County Council will be conducting a series of land use public meetings. The purpose of the public meetings will be to review the County's existing Land Use Plan and discuss proposed changes to comply with the State of Delaware **Livable Delaware** legislation. All meetings have been scheduled from 5:00 to 7:00 p.m. A formal presentation will be given at 6:00 p.m., and oral and written comments will be accepted after that presentation. Meetings have been scheduled as follows:

Councilmanic District No. 2 (Milford, Greenwood, Bridgeville, Georgetown)

Wednesday, November 14, 2001
Greenwood Fire Hall

Councilmanic District No. 3 (Ellendale, Slaughter Beach, Lewes, Milton)

Wednesday, November 28, 2001
Milton Fire Hall

Councilmanic District No. 1 (Seaford, Blades, Bethel, Laurel)

Thursday, December 6, 2001
Seaford Fire Hall

Councilmanic District No. 4 (Henlopen Acres, Rehoboth Beach, Dewey Beach, Bethany Beach, Ocean View, Millville)

Wednesday, December 12, 2001
South Coastal Library, Bethany Beach

Councilmanic District No. 5 (Fenwick Island, South Bethany, Selbyville, Dagsboro, Frankford, Millsboro, Delmar)

Thursday, December 20, 2001
Millsboro Civic Center

The general public is invited to attend any or all of these meetings. The general public is not limited to attend public meetings based on Councilmanic Districts.

The County Council will meet with town officials beginning at 3:30 p.m. prior to the scheduled public meeting on each of the aforementioned dates.

The Notice of Public Hearing has been posted on the County's website and on the bulletin board in the lobby of the County Administrative Office Building. The Notice of Public Hearing has also been advertised in the following five newspapers: News Journal, Delaware State News, Cape Gazette, Sussex Countian, and Seaford Leader.

Adminis-
trator's
Report

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

1. Literacy Program

The Sussex County Department of Libraries will be conducting training programs for volunteers to participate in the Project READS Literacy Program. Training will take place November 5, 7, 14, and 15, 2001, from 6:00 to 9:00 p.m. at the County West Administrative Building, DuPont Highway, Georgetown. For additional information, the Department can be contacted at 855-7890.

2. National Association of Counties

I would like to congratulate Councilman Vance Phillips for being named Vice Chair of the Agriculture Subcommittee for the National Association of Counties Rural Affairs Steering Committee. The Committee focuses on farm legislation affecting the economy of agricultural counties, trade legislation as it affects agriculture, Rural Development programs, soil conservation, and agricultural land preservation.

3. Sussex County Volunteer Firemen's Association

Dagsboro Fire Company will be hosting the monthly meeting of the Sussex County Volunteer Firemen's Association at their fire hall in Dagsboro on Tuesday, October 23, 2001, starting at 7:00 p.m. During the meeting, the County Council will distribute checks totaling \$504,496.98. This includes \$215,921.95 from the fire enhancement building permit fund and \$288,575.03 in fire grants. This funding is part of the County Council's budget contribution of \$1.8 million for FY '02.

New
Bank
Account

Mr. Baker presented for Council's consideration a Proposed Resolution to authorize a new bank account at Mellon Bank entitled "Sussex County Council, South Coastal Regional Wastewater Facility Improvements".

M 606 01
Adopt
Resolution
No.
R 029 01

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 029 01 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE MELLON BANK DELAWARE BEARING THE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Motion Adopted: 5 Yea.

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

Petitions
for Road
Name
Changes

Mr. Norwood, Supervisor of Information Systems, advised that as a result of Council allowing for petitioning of existing road names to be changed from August 31 to September 30 of each year, two petitions have been filed for road name changes, as follows:

1. "Wil King Road", (Road 288) from Road 280B to Road 287, is being petitioned to be changed to "Kingfisher Road".
2. "Bowden's Garage Road" (Road 18), from Road 17 to Route 404, is being petitioned to be changed to "Cannon Road".

In both instances, the \$100.00 fee has been paid to petition to have the road names changed, and the requirement has been met that at least 75 percent of the residents living along the road must sign the petition.

Mr. Norwood advised that the petition to have "Wil King Road" changed to "Kingfisher Road" contained 78 percent of the residents' signatures. Mr. Norwood stated that this is the second time the Council has considered this request; the first time, the Council voted to keep "Wil King Road" based on the fact that there was opposition from residents along that road. Mr. Norwood advised that a petition to keep the existing road name has also been received. Mr. Norwood stated that in researching the petitions, he found identical names in both petitions and therefore, the petitions contradict each other. For this reason, Mr. Norwood recommended that the road name remain the same.

Public comments were heard in favor of the road name remaining the same; approximately ten people were attendance in support of this action. Comments were made that when the suggestion was made to name the road "Wil King Road" there was no opposition and, since that time, there have been two individuals opposing the change; that 92 property owners (out of a total of approximately 100 property owners) have signed the petition to keep the road name the same; and that the residents are tired of the road name change issue and want it resolved.

M 607 01
Road
Name
Remain
the Same/
Wil King
Road

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the name of "Wil King Road" (Road 288), from Road 280B to Road 287, remain the same.

Motion Adopted: 5 Yea.

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

Cannon
Road
Petition

Mr. Norwood advised that no opposition has been received regarding the petition to have "Bowden's Garage Road" to "Cannon Road".

Public comments were heard in support of the road name change.

M 608 01
Road
Name
Change/
Cannon
Road

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to change the road name of "Bowden's Garage Road" to "Cannon Road".

Motion Adopted: 5 Yea.

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

Sussex
County
Passport/
Jill Ringer

The Sussex County Council presented to Jill Ringer of WBOC, a Sussex County Passport. Ms. Ringer has covered Sussex County Council meetings for WBOC for approximately two years. Ms. Ringer has announced that she will be leaving WBOC to join the FOX network in Albany, New York.

Vehicle
Bids

Mr. Frank Shade, Director of Purchasing, reported on bid results received on October 22, 2001 for two (2) Chevrolet Impalas for the Sheriff's Department. Bids received were as follows:

Hertrich Fleet Services	\$19,488.00
NUCAR Middletown	\$19,898.16
I. G. Burton	\$20,497.00

Mr. Shade responded to questions from Council that the vehicles have only standard light packages.

Following a review of the bids, Mr. Shade recommended that the bid be awarded to Hertrich Fleet Services.

M 609 01
Award
Vehicle
Bids

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council accepts the bid of Hertrich Fleet Services in the amount of \$19,488.00 per unit for two (2) Chevrolet Impalas with the equipment specified in the bid package, contingent on budget transfers.

Motion Adopted: 5 Yea.

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

M 610 01
Youth
Activity
Grant

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$400.00, \$200.00 each from Mr. Jones' and Mr. Phillips' Youth Activity Grant Accounts, to Sussex County 4-H for the Sussex County Livestock Club's feeder animal projects award presentation.

Motion Adopted: 5 Yea.

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

M 611 01
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$226.00 from Mr. Cole's Councilmanic Account to the Town of Selbyville for street signs, speed limit signs, and sign posts constructed in the Polly Branch Road Development.

Motion Adopted: 5 Yea.

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

M 612 01
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 from Mr. Jones' Councilmanic Account to the Town of Bridgeville for the Commission Chambers/Town Hall projects.

Motion Adopted: 5 Yea.

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

M 613 01
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$100.00 from Mr. Jones' Councilmanic Account to the Grandslam Softball Team for tournament expenses.

Motion Adopted: 5 Yea.

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

M 614 01
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500.00, \$100.00 from each Councilmanic Account, to the Delaware State Police for the Citizens Police Academy.

Motion Adopted: 5 Yea.

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

Nassau
Station

Mr. Green, Director of Utility Construction, discussed wastewater facilities constructed in Nassau Station.

M 615 01
Grant
Conditional
Acceptance

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 190, that the Sussex County Council grant Conditional Acceptance for the wastewater facilities constructed in Nassau Station, located in the West Rehoboth Sanitary Sewer District.

M 615 01
(continued)

Motion Adopted: 4 Yea, 1 Absent.

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

Mr. Dukes was out of the room during the vote on granting Conditional Acceptance for Nassau Station.

Proposed
Millville/
North
Millville
Sewer
Expansion

Mr. Archut advised that a public meeting has been scheduled relating to the Proposed Millville/North Millville Sewer Expansion. The meeting will be conducted by the Sussex County Engineering Department on Saturday, November 10, 2001 at 9:00 a.m. at the Millville Fire Hall. The public meeting is being held for the purpose of receiving public input on the next proposed boundary extension of the Bethany Beach Sanitary Sewer District. Over the past few years, interest has been expressed by several of the communities in the area including: Whites Creek Manor, Mill Run Acres, Murrays Haven, Denton Mills, Banks Harbor, and the developers of Bethany Bay. The public meeting will be held to discern interest for the entire area and to develop boundaries. No cost information will be provided at this meeting due to the fact that the boundaries have not yet been established. No action was required by Council.

Newsletter

Mr. Archut distributed a copy of a newsletter pertaining to the Proposed Miller Creek Sanitary Sewer District.

Newsletter

Mr. Cole asked that a newsletter be published and distributed relating to the Cedar Neck Sanitary Sewer District.

Memorial
Rally

Ms. Marie Rose Mercy addressed Council and read a letter thanking Mr. Stickels, Council members and others for their participation in the October 11th "America Shall Overcome!" Memorial Rally held on The Circle in Georgetown. Ms. Mercy extended an invitation to all to attend the second memorial rally, which will be held on The Circle in Georgetown on Sunday, November 11, 2001 at 1:00 p.m. Ms. Mercy advised that this rally will provide special recognition to the County's local, dedicated veterans of war in recognition of Veterans Day.

Public
Hearing/
Proposed
Ordinance
Authorizing
Issuance
of Bonds

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$2,077,100 GENERAL OBLIGATION BOND OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF THE SOUTH COASTAL REGIONAL WASTEWATER FACILITY (SAND FILTER REPLACEMENT AND PUMP STATION NO. 100 FORCE MAIN) AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH". If approved, the County will issue its negotiable obligations in the maximum aggregate principal amount not to exceed \$2,077,100 to finance or refinance a portion of the cost of the construction and equipping of the Project. The Bond shall bear interest at such rate or rates not to exceed 4-1/2% per annum and shall mature in such amounts and at such times, but not exceeding 40 years. It is anticipated that the Bond will be sold to the United States of America (acting by and through the Department of Agriculture, Rural Development, Rural Utilities Service). While the bond is backed

Public
Hearing
(continued)

by the County's full faith and credit, it is expected that the debt service will be paid from revenues of the South Coastal Regional Wastewater Facility.

Public comments were heard. Mr. Daniel Kramer questioned whether there is a guarantee that no County money will be used; questioned what the life of the equipment is expected to be versus the 40 year maturity of the bond; and questioned whether the rates in the South Coastal area will go up. It was reiterated that it is expected that the debt service will be paid from revenues from the South Coastal Regional Wastewater Facility. It was also noted that rates are set annually as a part of the budget process.

The Public Hearing was closed.

M 616 01
Adopt
Ordinance
No. 1497

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1497 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$2,077,100 GENERAL OBLIGATION BOND OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF THE SOUTH COASTAL REGIONAL WASTEWATER FACILITY (SAND FILTER REPLACEMENT AND PUMP STATION NO. 100 FORCE MAIN) AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

Motion Adopted: 5 Yea.

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

Road Name
Change
Petition

Mr. Dukes advised that on Monday, October 22, 2001 he received a road name change petition. He noted that the petition was received after the deadline.

Mr. Dukes referred to the section of the Sussex County Council minutes of June 29, 1999 relating to the process and schedule for road name changes, as follows: "There will be no more road name changes after September 21, 1999 until the following year. There will be a period each year from August 1st through September 30th for people to request road name changes. These changes will be presented to the County Council on the first Tuesday of October each year. The County Council will vote on the proposed names on the third Tuesday of October each year." This Motion passed 5-0.

The petition received by Mr. Dukes will be forwarded to Mr. Norwood, Director of Information Systems. Mr. Norwood will be directed to contact the petitioners and ask them to re-file their petition next year during the period August 1st through September 30th.

M 617 01
Recess

At 11:12 a.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

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

Public
Hearing
(C/U
No. 1418)

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 PUBLIC SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 30.0 ACRES, MORE OR LESS” (Conditional Use No. 1418) filed on behalf of Cape Henlopen School District.

The Planning and Zoning Commission held a Public Hearing on August 23, 2001. On September 13, 2001 the Commission recommended that the application be approved with four stipulations.

Mr. Lank read a letter into the record from the Sussex County Engineering Department, Planning and Permits Division, making reference to the application and the site location and stating that sanitary sewer service will be provided through the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Mr. Lank read into the record a letter from the Office of State Planning Coordination to the State of Delaware Department of Education, dated April 17, 2000, which was received by the County on September 6, 2001. (This letter was not available to the Planning and Zoning Commission.)

Mr. Lank noted that the letter from the Office of State Planning Coordination states that the site is located in a rural area; that rural areas are historically open areas where State policy will be to encourage the preservation of rural lifestyle and discourage new development; and that the State would like to see schools located within communities or developing areas so that a variety of transportation options would be available to the students and teachers. The letter references that the Department of Natural Resources and Environmental Control has noted that the parcel is located near a leaking underground storage tank site and that, should any petroleum-contaminated soil be discovered during construction, the Underground Storage Tank Branch must be notified as soon as possible. The letter also references that the Delaware State Historic Preservation Office has noted that there is a nearby homestead that would be adversely affected visually by the project and recommends that the southern line of the parcel include a vegetative screen. They also commented that the Fisher House was located in the middle of the parcel and that if the District chooses this site, the Office would like to work with them to identify the exact location of the Fisher House and help them preserve it within the overall development plan. The letter also references comments made by DelDOT that the population this school would serve and the travel patterns of that population need to be considered because of the heavy amounts of traffic along Route 24. For this reason, DelDOT wants the school’s main access to be on Mulberry Knoll Road in accordance with DelDOT’s standards and that the entrance will be required to have protected left turn lanes. DelDOT is not requiring a traffic impact study.

Mr. Lank advised that it was found in the presentation of the applicant at the Planning & Zoning Commission hearing, that the entrance is to be off of Route 24 and not off of Mulberry Knoll Road.

Public
Hearing
(C/U
No. 1418)
(continued)

Mr. Lank read a letter into the record from Irene Murray, an adjoining property owner, stating that the Public Hearing held on August 23, 2001 by the Planning and Zoning Commission was held without posting in front of the site; that legal notice should have been posted along Route 24; and that the meeting should be rescheduled.

Mr. Lank advised that the Public Hearing notice was posted on the site on August 2, 2001 and that area residents were notified of the Public Hearing by letter.

Mr. Fuqua, Attorney, spoke on behalf of the application. Mr. Fuqua stated that the Cape Henlopen School District has established a need for two new middle schools; that this 30-acre site has been selected for one of the middle schools; that the school district is growing; that six of the seven buildings are overcrowded; that the location of this school was selected in an effort to ensure that no child would have to travel more than 7 miles to school; that the State Board of Education has authorized the acquisition of this site; that on March 7, 2000 a referendum was held; that at that referendum, approval was granted for the tax increase to fund the project; that the conditional use is for a public use – an educational use for children; that the location is appropriate due to geographical elements; that the site is an appropriate development area; that all children attending the school will be provided bus service; that the site is adequate for a middle school and sports facilities; and that there is no intent to provide lighting on the athletic fields.

Mr. Medlarz of Davis, Bowen & Friedel, Inc. also spoke on behalf of the application. Mr. Medlarz stated that the site was selected in an open process; that there is strong public support for this project; that they are negotiating with Tidewater Utilities for central water; that the site is high with adequate area for stormwater management; that this site was chosen since it was located in the center of the growth area and since the location would provide for less bus travel time for students; that a single entrance is proposed on Route 24; that there is no need to construct another intersection if one already exists within 1,000 feet; that the people that made the comments in DelDOT's letter referenced by Mr. Lank were the Planning Department people and that when the Road Design and Commercial Entrance Sections of DelDOT reviewed the application, it was clear to them that the poorest choice would be the intersection on Route 284; that a generation study was performed at the Milton Middle School which provided exact data as to how many people are dropped off, how many teachers arrive, and how many buses arrive since the Milford School and this proposed school are identical in size, student population, and the area in which they serve; that landscaping is proposed along the residential areas and along Route 24; and that the closest leaking underground storage tank that can be found is located along Route One, a mile away.

Public comments were heard. Ms. Irene Murray submitted a packet of documents in reference to her property line next to the school and expressed concerns about possible errors in the property line; traffic safety; traffic hazards on Route 24; speeding traffic in a school zone; the safety of children walking to school on Route 24; questioning where and how children will cross Route 24 to get to the school; expressing concerns about drugs, crime, and hunting; stating that a fence should surround the school property; expressed concerns about the closeness of her home to the athletic fields; requesting a fence and tree buffer between her home and the athletic fields; and expressed a concern that the school is taking her property.

(continued) The Public Hearing was closed.

M 618 01 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to close the public
Close hearing record on Conditional Use No. 1418, filed on behalf of the Cape Henlopen
Public School District.

Hearing Motion Adopted: 5 Yea.

Record on C/U

No. 1418

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

M 619 01
Adopt
Proposed
Ordinance
(C/U
No. 1418)

A Motion was made by Mr. Cole to Adopt the Proposed Ordinance entitled "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 PUBLIC SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 30.0 ACRES, MORE OR LESS" (Conditional Use No. 1418) filed on behalf of Cape Henlopen School District, with the following stipulations:

1. All lighting shall be located so as to not impact traveling motorists or neighboring properties and shall be directed towards the interior of the site.
2. A five (5') foot high open chain link fencing shall surround any ball fields fronting on Route 24.
3. Landscaping shall be provided along all adjoining residential lots.
4. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
5. The Cape Henlopen School District shall execute a Memorandum of Understanding for sanitary sewer service from the West Rehoboth Extension of the Dewey Beach Sanitary Sewer District.
6. All entrance and roadway improvements required by DelDOT shall be completed by the applicant.
7. The State of Delaware Historic Planning Office shall have reasonable access to the site to identify the location of the Fisher House as long as the review does not impede the progress of the construction of the school.
8. All necessary County, State and Federal permits shall be secured before construction is undertaken.

The Motion died for the lack of a second.

M 620 01
Defer
Action on
C/U
No. 1418

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action on Conditional Use No. 1418 filed on behalf of the Cape Henlopen School District.

Motion Adopted: 5 Yea.

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

Old
Business

Conditional Use No. 1418 will be placed on the October 30th agenda under Old Business.

Conflict
of Interest

Mr. Rogers and Mr. Bayard left the meeting due to a possible conflict of interest with the next application.

Public
Hearing
C/Z
No. 1444

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A 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 29.15 ACRES, MORE OR LESS" (Change of Zone No. 1444) filed on behalf of T. William Lingo.

The Planning and Zoning Commission held a Public Hearing on August 23, 2001. On September 13, 2001 the Commission recommended that the application be approved with ten stipulations.

Mr. Fuqua, Attorney, and Mr. Bill Lingo and Mr. Bryce Lingo were present on behalf of the application and stated in their presentation that Canal Corkran, a 177 unit Residential Planned Community, was approved by the County Council in 1998; that the Canal Corkran project has a density of 2.76 units per acre on a 62 acre tract; that this application is an extension to the Residential Planned Community; that the HR zoning classification was applied for since the site contains less than 40 acres and would not be acceptable as a MR-RPC for mixed housing types; that they propose to develop 60 units on 29.15 acres with a density of 2.06 units per acre; that they have applied for the RPC so that the number of units can be restricted; that they propose to develop 32 townhomes and 28 single family dwellings on the site; and that a second entrance would be completed if and when DelDOT requires it.

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

M 621 01
Adopt
Ordinance
No. 1498
(C/Z
No. 1444)

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1498 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 29.15 ACRES, MORE OR LESS" (Change of Zone No.

M 621 01
(continued)

1444) filed on behalf of T. William Lingo, with the following conditions:

1. The maximum number of residential units shall not exceed sixty (60) units comprised of twenty-eight (28) single family lots and thirty-two (32) townhouses.
2. The development shall utilize the approved entrance for the Canal Corkran RPC (Change of Zone No. 1359) for ingress and egress.
3. The development shall be an extension of the approved Canal Corkran RPC and shall be subject to the Declaration of Covenants applicable to that RPC.
4. The streets within the project shall be built to State specifications with curbing.
5. Street lighting shall be provided.
6. Access to the project shall be created on the multi-modal corridor. The Department of Transportation shall determine the location of the access on the multi-modal corridor.
7. All recreational amenities shall be completed prior to the settlement of any units in Section II of Canal Corkran.
8. The project shall be served by a central water system.
9. The project shall be served by Sussex County sewer.
10. The final site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

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

Findings
of Fact

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

1. HR/RPC zoning is appropriate for this parcel of land. The purposes of a combined HR/RPC zoning district are (1) to provide a variety of residential housing types in areas which are or which are expected to become generally urban in character; and (2) to encourage large-scale developments as a means of creating a superior living environment through uniform development, and to provide for the application of design ingenuity while protecting existing and future developments and achieving the goals of the 1997 Sussex County Comprehensive Plan (the "Plan"). This application is consistent with those stated purposes.

Findings
of Fact
(continued)

2. The proposed development is in accordance with the Plan in that:
 - It is located in the designated development district adjacent to the City of Rehoboth and central water and sewer are available.
 - There are no negative environmental effects and the change of zone and development will provide housing, economic benefits and employment.
 - The density and type of development proposed are in accordance with the development anticipated by the plan, which recognizes that development should be concentrated in those areas adjacent to municipalities and where central sewer and water are available.
 - The applicant has shown that the proposed use is appropriate and in conformity with the Plan and the intent of the Plan.
 - The density is less than the density that is allowed by the Plan.
 - The site is consistent with the development patterns recognized by the State of Delaware Strategies For State Policies and Spending and is located in a multi-modal investment area under DelDOT's Statewide Long Range Transportation Plan.

3. The request promotes the health, safety, morals, convenience, order, prosperity and general welfare of current and future residents based on the evidence and testimony presented by the applicant including the following:
 - Access to the project shall be created at the multi-modal corridor. The Department of Transportation shall determine the location of the access on the multi-modal corridor.
 - In order to mitigate traffic impact, DelDOT requested and the applicant has provided dedication of a right of way connecting Church Street and Hebron Road and the applicant has entered into a signal agreement for a future signal and intersection improvements at Church Street and Rehoboth Avenue Extended.
 - Adequate fire and police protection are available nearby.
 - The project is located in an area which is appropriate for the requested rezoning and characterized by a mixture of commercial and residential development of various degrees of intensity. While HR zoning would permit a higher density, the proposed development would be developed at approximately 2.09 units to an acre.
 - That adequate central water and public sewer facilities are available and that there will be no adverse impact on nearby properties.
 - That adequate utility services, schools, medical facilities and shopping areas

Findings
of Fact
(continued)

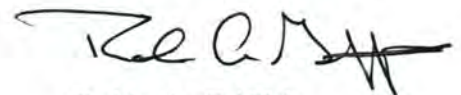
are available.

- That the development will provide a substantial direct economic impact to the County in terms of jobs, payrolls, sewer fees, property taxes, school taxes, and transfer taxes and will provide a substantial secondary economic impact to area businesses.
- That the property is located in an existing mixed commercial/residential area designated as a development district and the proposal will not adversely affect agriculture.
- That the character of the existing area is mixed commercial/residential and that the site is suitable and appropriate for the proposed use and does not appear to have any adverse impact on property values, nearby property uses or natural resources.
- That there is a need for housing of the type proposed by the applicant in the area for year-round residents.
- The proposed development contains a significant amount of open space.
- That the development is consistent with the historical trend of development in the area and with the intended plan for future development as stated in the Plan.
- That the development will be an extension of the existing Canal Corkran RPC and will utilize the approved entrance for that development.
- That the findings of fact and conclusions stated herein are based on substantial evidence comprised of the reasons stated above, the testimony and evidence presented by the applicant and the findings of fact of the Planning and Zoning Commission's recommendation of approval.

M 622 01
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to adjourn at 4:20 p.m.
Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of Council