

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 16, 1999

Call to  
Order

The regular meeting of the Sussex County Council was held Tuesday, November 16, 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 632 99  
Amend  
and  
Approve  
Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by deleting the following:

Michael A. Izzo, County Engineer

1. West Rehoboth Expansion of the  
Dewey Beach Sanitary Sewer District

A. Red Mill Pond North Contract

1. Change Order No. 2

B. Five Points North Contract

1. Change Order No. 2;

and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 633 99  
Approve  
Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of the previous meeting, dated November 9, 1999.

Motion Adopted: 5 Yea.

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

Corre-  
spondence

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

HARRY ROOSEVELT, EXECUTIVE DIRECTOR, DELAWARE  
SAFETY COUNCIL, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Council's continued support and grant in the amount of \$1,500.00.

MARVIN SHARP, PRESIDENT, CARLISLE FIRE COMPANY, INC.,  
MILFORD, DELAWARE.

RE: Request for funding for the Fire Company's ambulance service in Sussex County.

KATHY MINOR, EXECUTIVE DIRECTOR, INTERFAITH MISSION  
OF SUSSEX COUNTY, INC., OCEAN VIEW, DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

Planning  
& Zoning  
Commission  
Decision/  
Appeal/  
Lee  
Littleton/  
Smith  
Acres  
Subdivision

Mr. Stickels discussed an appeal to the Sussex County Planning & Zoning Commission's decision regarding an application of Lee Littleton to consider the subdivision of land in a GR General Residential Zoning District in Little Creek Hundred, by dividing 8.76 acres into six (6) lots, located south of Road 454, 300 feet east of Road 457 (Smith Acres Subdivision - Subdivision No. 98-11). The Planning & Zoning Commission approved the application as a preliminary with the following stipulations:

1. A cul-de-sac shall be provided at the end of the private street near Lot 6.
2. An easement shall be depicted to William Carr's property on the final record plan.
3. The stormwater management area shall be depicted on the final record plan.
4. An approval from Delmarva Power and Light shall be required prior to final approval.

Appeal  
(continued)

Mr. Stickels read a letter from Donald K. Miller of Miller-Lewis, Inc., on behalf of Lee Littleton, requesting that the County Council waive the stipulation that a cul-de-sac be constructed at the end of Smith Street.

A discussion was held regarding the County's Ordinance that allows a dead-end street of up to 300 feet in length and the length of Smith Street (282 feet). Questions were raised regarding the problem dead end streets create for public safety providers. It was noted that no comment was received from the fire service regarding this application.

M 634 99  
Support  
Decision  
of the  
Planning  
& Zoning  
Commission/  
Smith  
Acres  
Subdivision

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to support the decision of the Planning & Zoning Commission to require a cul-de-sac at the end of Smith Street for Smith Acres Subdivision (Subdivision No. 98-11).

Motion Denied: 3 Nay, 2 Yea.

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

The appeal will be scheduled for Public Hearing on December 21, 1999, at 11:00 a.m. An opinion from the fire service will be solicited.

Request/  
Town of  
Selbyville/  
Reimburse  
3 Percent  
Fee

Mr. Stickels reported that a letter has been received from Gary Taylor, Town Administrator for the Town of Selbyville, in which the Town is requesting reimbursement of the three percent fee that was charged by the County on the total selling price of a property that was bought at Sheriff's Sale on March 23, 1999. It was noted that the County recently waived the three percent fee for the City of Seaford.

A draft ordinance is pending exempting incorporated municipalities from the three percent bid fee.

Sheriff Reed addressed Council regarding the impact that waiving fees will have on his departmental budget. Sheriff Reed emphasized the fact that the Sheriff's Department is providing a service for the towns and the County should be reimbursed for the costs of that service.

M 635 99  
Reimburse  
3 Percent  
Fee to  
Town of  
Selbyville

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to reimburse the three percent bid fee from the March 23, 1999, Sheriff's Sale to the Town of Selbyville, and to stipulate that no more reimbursement requests will be considered until the Proposed Ordinance has been acted on.

Motion Adopted: 5 Yea.

M 635 99  
(continued)

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

Sussex  
County  
Internet  
Website

Dennis Norwood and Eddie Spargaglione provided an update and visual presentation on Sussex County's internet website ([www.sussexcounty.net](http://www.sussexcounty.net)). The website has recently gone through a major revision and update process to provide users a much more efficient, practical and convenient way of accessing information about Sussex County Government. It is the County's intent to eventually make available all County information that is currently available to the public by virtue of the Freedom of Information Act. The website provides up-to-date agendas and minutes; a listing of County Council, Board of Adjustment and Planning & Zoning Commission members and contact information; demographic information; permit information; tax map information; economic development information; emergency management information; hurricane readiness information; notices on upcoming events, items of general interest, etc. On an ongoing basis, new features will be added and current offerings will be improved; for example, in the near future, tax parcel information and zoning information will be added.

Recorder  
of Deeds/  
Agenda  
2000  
Update

Mr. Bell, Recorder of Deeds, updated the County Council on his "Agenda 2000", a detailed plan to improve and enhance the Recorder of Deeds office:

- Map books were in very poor condition. All maps are now on mylar and are a permanent record.
- Mortgage satisfaction books are now being maintained. (Also, the office is continuing the practice of going back to the mortgage and marking it satisfied.)
- The office is now returning mortgages in 15 days versus the amount of time it used to take which was 12 weeks.
- New furniture has just been received and reorganization of the office space is taking place.

Mr. Bell discussed the improvements that are planned for the future:

- Accepting, reading and validating documents will be done electronically.
- Darkroom photography of documents will be eliminated; document scanning will take less time and be more efficient.

Agenda  
2000  
Update  
(continued)

- Books will be eliminated – document retrieval will be by computer.
- Eventually, it will be possible to do all title searches electronically on the computer.

Mr. Bell explained that the County currently pays ACS \$4.10 per document. If the County decides to move forward with document retrieval by electronic means, ACS will increase the cost to \$4.75 per document. Mr. Bell requested permission to negotiate a contract amendment with ACS. It was noted this would not result in an increase in the County's fee structure; however, users that want to access documents from their home or office will have to purchase equipment and pay a monthly fee.

M 636 99  
Authorize  
Contract  
Amendment  
with ACS

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, authorizing the County Administrator, Finance Director, and Recorder of Deeds to negotiate an amendment to the contract between Sussex County and ACS with the stipulation that the Recorder of Deeds' FY 2000 budget is not exceeded.

Motion Adopted: 5 Yea.

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

Adminis-  
trator's  
Report

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

1. Holiday Schedule

Sussex County offices will be closed Thursday, November 25, and Friday, November 26, 1999, to allow employees to observe the Thanksgiving Day holiday. Offices will reopen at 8:30 a.m. on November 29, 1999. There will not be a Council meeting Tuesday, November 23, 1999. The next regularly scheduled Council meeting will be at 10:00 a.m. on Tuesday, November 30.

2. Senior Citizen School Property Tax Reduction

Delaware residents over the age of 65 who are applying for the Senior School Property Tax Credit must include with the application that they received from the State a copy of their driver's license, birth certificate, or other proof of age. We are having difficulty processing these applications because those being sent from the State did not include instructions that proof of age was a requirement and that their taxes must be current. Anyone not providing proof of age will have their application returned.

Public  
Hearing  
C/Z  
No. 1388

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 38,490 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1388) filed on behalf of Donald A. Wagner. The Planning & Zoning Commission held a Public Hearing on this application on October 28, 1999, at which time they recommended that the application be denied.

Public comments were heard in opposition to the application; there were no public comments in support of the application. The Public Hearing was closed.

M 637 99  
Adopt  
Proposed  
Ordinance  
(C/Z  
No. 1388)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 38,490 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1388) filed on behalf of Donald A. Wagner.

Motion Denied: 5 Nay.

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

Findings  
of Fact

The Council found that the change of zone was not appropriate legislative action based on the following findings of fact:

1. The proposed change of zone would result in spot-zoning.
2. The proposed change of zone would adversely affect traffic in an already congested area.
4. The proposed change of zone would adversely affect the residential character of the neighborhood.
5. The proposed change of zone is not in accordance with the purposes and goals of the Comprehensive Plan.

Old  
Business  
(C/U  
No. 1309)

Conditional Use No. 1309 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RADIO/TV SERVICE AND FUTURE SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 43,506 SQUARE FEET, MORE OR LESS" filed on behalf of John and Michele Mintzer was discussed. The Planning and Zoning Commission held a Public Hearing on this application on October 14, 1999, at which time they recommended approval with stipulations. The County Council held a Public Hearing on this application on November 2, 1999, at which time action was deferred to give Council members the opportunity to look at the property.

M 638 99  
Adopt  
Proposed  
Ordinance  
(C/U  
No. 1309)

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 RADIO/TV SERVICE AND FUTURE SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 43,506 SQUARE FEET, MORE OR LESS (Conditional Use No. 1309) filed on behalf of John and Michele Mintzer.

Motion Denied: 4 Nay, 1 Yea.

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

Findings  
of Fact

The Council found that the conditional use was not appropriate legislative action based on the following findings of fact:

1. The proposed conditional use would adversely affect the residential character of the neighborhood.
2. The proposed conditional use is not in accordance with the purposes and goals of the Comprehensive Plan.

Proposed  
Oak Orchard  
SSD/  
Consultant  
Contract

Mr. Archut, Assistant County Engineer, presented for Council's approval a Proposed Agreement with Cabe Associates for engineering services for the Proposed Oak Orchard Sanitary Sewer District and Planning Area. The Agreement outlines the preliminary engineering portion of the work at a cost not to exceed \$39,900.

M 639 99  
Execute  
Contract

A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the Sussex County Council President is hereby authorized to execute an Agreement with Cabe Associates for preparation of the Preliminary

M 639 99  
Execute  
Contract/  
Cabe  
Associates/  
Proposed  
Oak  
Orchard  
SSD

Engineering Report for the Oak Orchard Sanitary Sewer District, in an amount not to exceed \$39,900, subject to the final review and approval of the Internal Auditor.

Motion Adopted: 5 Yea.

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

West  
Rehoboth  
Expansion  
Planning  
Study

Mr. Archut, Assistant County Engineer, and Mr. Bozick and staff from George, Miles & Buhr, presented for Council's consideration a Capacity Evaluation of the wastewater collection and treatment system and a Planning Study to assess enlarging the service area for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

This Planning Study, authorized by Council on March 30, 1999, became necessary due to the large amount of growth in the West Rehoboth expansion area. This area is the County's largest growing service area and large growth is expected to continue. In addition, the County is receiving requests for annexation from outside the existing boundaries of the district.

The purpose of the study was to accomplish the following:

1. Assess the present development and wastewater flow that exists within all phases of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.
2. Estimate the ultimate build-out and total projected wastewater flow in the current district.
3. Identify capacity deficiencies in both the sewer collection and transmission system (pipelines, pump stations and force mains) and the treatment and disposal system.
4. Define boundaries for expanding the service area, if feasible based on the capacity of the sewer collection and transmission system and the treatment and disposal system.
5. Identify infrastructure needs in the current district and future expansion areas.

Mr. Bozick reported that the design of the wastewater collection and transmission serving Phases I and II in the West Rehoboth Expansion assumed the following growth and ultimate densities:

West  
Rehoboth  
Expansion  
Planning  
Study  
(continued)

Growth Rate	3%
Agricultural – Residential Zoning	2.2 EDU's per gross acre
Commercial Zoning Density	3.3 EDU's per gross acre

The sewers were sized to accommodate future flows from Phase III and IV at the same development density listed above. During the design of Phase III sewers and for planning purposes of this study, the growth rate and ultimate densities have been revised as follows:

Growth Rate	4%
Residential Zoning Density	4 EDU's per net acre
Commercial Zoning Density	6.67 EDU's per gross acre

Council was advised that a computer model of the entire existing collection system was created. The model includes about 81 sewer lines; the capacity of each of the lines was developed as well as flows for ultimate and existing. George, Miles & Buhr also developed a way to look at the model as trial EDU's which will allow the Engineering Department to use the model to analyze development requests. It is recommended that the model should be updated yearly.

Council was advised that, when the model was completed, there were eighteen deficient gravity sewer lines in the collection system. Ten of the eighteen lines will reach capacity in less than 20 years. Two alternatives are being considered; to replace the lines with larger lines or to run additional lines parallel to the existing lines. George, Miles & Buhr does not recommend immediate action; however, the County should continue to monitor the lines closely.

Council was advised that the capacity of the existing Wolfe Neck Wastewater Treatment Plant will be reached in the year 2009, using a growth rate of 4% per year and Phases 1, II and III with 10,224 existing EDU's. This assumes no extension of the current district boundaries.

Council was advised that, at some time in the future, the wastewater generated within the current district will exceed the spray irrigation disposal capacity. Additional land nearby, in the amount of 400 wetted-acres, under the jurisdiction of the Delaware Division of Parks and Recreation, is being considered to increase capacity. If the boundaries of the West Rehoboth Expansion Area are not expanded, and there is no additional flow permitted from outside the current boundaries, the existing Wolfe Neck Wastewater Treatment Plant spray field plus the lands from the Delaware Division of Parks and Recreation should provide disposal capacity through the year 2024.

The Planning Study report and summary were distributed to Council for their consideration. Council was asked to consider adopting the Planning Study to be used as a guide for future development in the County.

West  
Rehoboth  
Expansion  
Planning  
Study  
(continued)

Mr. Archut commented that the Engineering Department has attempted to mirror the County's Comprehensive Plan in the development of this Planning Study.

It was the consensus of Council to defer action on the Planning Study until the November 30, 1999, meeting to give Council the opportunity to read and consider the report.

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 AN ANTIQUE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 36,035 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1320) filed on behalf of David C. Blackwell. The Proposed Ordinance will be advertised for Public Hearing.

Proposed  
Ordinance

Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTORS OFFICE AND EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.9192 ACRES, MORE OR LESS" (Conditional Use No. 1321) filed on behalf of Custom Framers, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Proposed  
Ordinance

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A HEATING AND AIR CONDITIONING CONTRACTORS OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.17 ACRES, MORE OR LESS" (Conditional Use No. 1322) filed on behalf of Ronald C. Witke. The Proposed Ordinance will be advertised for Public Hearing.

M 640 99  
Council-  
manic  
Grant

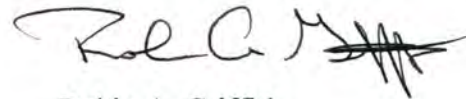
A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$150.00 from Mr. Cole's Councilmanic Account to Rehoboth Beach Main Street for the Annual Community Unity Dinner.

Motion Adopted: 5 Yea.

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

- Complaint Mr. Cole reported to Council on a complaint he received from the Middlesex Beach Homeowners Association relating to a violation of the Housing Code. Mr. Bayard expressed his opinion that the complaint was a community issue and not a County-wide issue and; therefore, should be addressed by the Homeowners Association.
- Citizen's Comments Mr. Wolfgang von Baumgart distributed to Council a list of contacts for Decentralized Wastewater Treatment and a list of publications available on onsite and small community wastewater treatment. Mr. von Baumgart expressed his interest in analyzing the West Rehoboth Planning Study.
- M 641 99 Adjourn A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to adjourn at 12:25 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council