

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 27, 2001

Call to Order The regular meeting of the Sussex County Council was held Tuesday, November 27, 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 677 01 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the Agenda, as distributed.

Motion Adopted: 5 Yea.

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

M 678 01 A Motion was made by Mr. Phillips, seconded by Mr. Jones, to approve the minutes of November 13, 2001, as distributed.

Motion Adopted: 5 Yea.

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

Corre-spondence Mr. Bayard read the following correspondence:

LIONS VISION RESEARCH FOUNDATION, INC., BALTIMORE, MARYLAND.
RE: Letter in appreciation of Council's 2001 Vision Days donation.

SUSSEX COUNTY 4-H LIVESTOCK CLUB.
RE: Letter in appreciation of Councilmanic Grant.

CAPE HENLOPEN SCHOOL DISTRICT, LEWES, DELAWARE.
RE: Letter to Mr. Dukes in appreciation of his consideration and favorable vote on their conditional land use request.

Corre-
spondence
(continued)

FIRST SHORE FEDERAL SAVINGS AND LOAN ASSOCIATION, SALISBURY, MARYLAND.

RE: Letter to Mr. Dukes in appreciation of his consideration and positive action on their rezoning request.

BAY COLONY PROPERTY OWNERS ASSOCIATION, DAGSBORO, DELAWARE.

RE: Letter to Mr. Dukes and Council in appreciation for the buy-out of the USI, Inc. contract (Holts Landing Sanitary Sewer District).

CHEER, SUSSEX COUNTY SENIOR SERVICES, INC., GEORGETOWN, DELAWARE.

RE: Letter to Mr. Dukes in appreciation of his help in serving the 9-11 Benefit Spaghetti Dinner.

DANIEL R. GRIFFITH, STATE OF DELAWARE, HISTORIC PRESERVATION OFFICE, DOVER, DELAWARE.

RE: Letter to Mr. Dukes informing him that the Ross Point School was listed in the National Register of Historic Places.

MICHAEL N. CASTLE, CONGRESS OF THE UNITED STATES, WASHINGTON, D.C.

RE: Letter to Mr. Dukes regarding the current status of the Bush Administration's Faith Based Initiative.

RUBEN BARRALES, DEPUTY ASSISTANT TO THE PRESENT AND DIRECTOR OF INTERGOVERNMENTAL AFFAIRS, THE WHITE HOUSE, WASHINGTON.

RE: Letter to Mr. Dukes in appreciation of Council's Resolution in support of the President regarding the acts of war committed against the United States on September 11.

Delaware
Economic
Development
Office/
Marketing
Campaign

Mr. John D. Wik, Director, Delaware Economic Development Office (DEDO), was present and discussed the marketing/image campaign which the State has undertaken. Mr. Wik advised that DEDO is the business arm of the State; that DEDO is the group that goes out and tries to bring additional businesses into the State; and that DEDO is the group that also has a tourism office. The role of DEDO is to attract and retain businesses and to enhance the quality of life of Delaware residents. Mr. Wik stated that the marketing campaign is aimed at maintaining jobs in the State of Delaware; bringing people to Delaware to help support those businesses; and bringing businesses to Delaware. Mr. Wik referred to Delaware's new slogan "It's good being first." Mr. Wik stated that the slogan is only a part of the entire marketing campaign; that the campaign will be advertised and marketed with print ads, televisions ads, and radio spots. The marketing campaign will promote Delaware as a tourism destination and a place to do business. The marketing campaign will also identify the quality of life in Delaware and some of the things that Delaware can offer to businesses. Mr. Wik reported that \$250,000 has been spent by the State, not just for the slogan, but for the creation of the imagery, the advertisements, the radio advertising, and the television advertising. He noted that another \$350,000 has been earmarked for placing the ads on radio and television. Mr. Wik concluded by stating that this is an aggressive campaign

DEDO
(continued)

to support businesses, to retain jobs, to bring new businesses into the State, and to focus on the tourism industry.

M 679 01
Authorize
Human
Service
Grants

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to authorize the following Human Service Grants:

Gumboro Community Center	\$2,000.00
Seaford Revival Center Mission, Inc.	\$500.00
Mason-Dixon Woodworkers	\$500.00
Caroling on The Circle Food Drive Committee	\$250.00

Motion Adopted: 5 Yea.

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

Administrator's
Report

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

1. Sussex County Land Use Plan Update Meeting

A reminder that the County will be conducting a Land Use Plan Update meeting on Wednesday, November 28, 2001. Staff will be meeting with the Towns of Ellendale, Slaughter Beach, and Milton and the City of Lewes at 3:30 p.m. at the Milton Fire Hall. The general public is encouraged to attend from 5:00 to 7:00 p.m. A formal presentation will be given at 6:00 p.m.

The next scheduled meeting will be Thursday, December 6, 2001, at the Seaford Fire Hall for the Towns of Blades, Bethel, and Laurel and the City of Seaford.

2. Statewide Burning Ban

I have been notified by the Office of the State Fire Marshal that Sussex County is still under an order prohibiting all outdoor burning. State Fire Marshal Willard Preston stated that this is necessary due to the extreme dry conditions throughout our County. All persons are requested to cooperate in an attempt to reduce the serious danger of fires that threaten our County. Excluded from the burning ban are charcoal and gas grills. Residents are urged to exercise extreme caution in their use. Violators may be arrested and are subject to a fine of up to \$100.00, jail sentence of up to 10 days, or both.

3. Mildred King Memorial Luncheon

County offices will be closed from 11:30 a.m. to 1:15 p.m. on Tuesday, December 4, 2001, to allow employees to attend the Mildred King Memorial Luncheon at the Grace United Methodist Church Hall.

4. Caroling on The Circle

A reminder that the County Council will be hosting Caroling on The Circle on Monday, December 3, 2001. The program will start at 6:30 p.m. with Spanish Christmas carols followed with a formal program entitled, "A Sussex County Christmas on The Circle." The program will include a cast of 32 arriving on The Circle in antique automobiles.

Sussex County residents are encouraged to attend a very enjoyable evening. Following the program on The Circle, everyone is invited to the Georgetown Fire Hall for hot chocolate and cookies and to meet Santa Claus.

Please do not forget to bring your nonperishable food items. I am concerned that we may fall short of our goal of 10,000 items. I realize that since September 11 people have been donating to many organizations. Please keep in mind that there are those in Sussex County who are not as fortunate as all of us.

5. Delaware Department of Transportation Public Workshop

The Delaware Department of Transportation (DelDOT) is holding a public workshop to present the U.S. Route 13 Corridor Plan which includes proposed improvements as part of the U.S. Route 13 Corridor Capacity Preservation Program. The workshop has been scheduled for Tuesday, December 4, 2001, from 4:00 to 8:00 p.m. at the Seaford Middle School, 500 East Stein Highway, Seaford, Delaware.

The workshop will serve as a forum to learn how DelDOT proposes to preserve the ability of U.S. Route 13 to handle increasing traffic volumes and accommodate development well into the future. DelDOT planners and engineers will be available to answer questions related to specific transportation or development issues related to the program. Residents who are unable to attend the briefing but still have questions concerning the corridor capacity preservation workshop may contact the Office of External Affairs at 1-800-652-5600.

Conditional Use No. 1421 filed on behalf of Wallace P. Townsend was discussed. The Planning and Zoning Commission held a Public Hearing on this application on October 11, 2001 at which time they deferred action for input from the FAA and Delta Airport Consultants, Inc. On November 8, 2001 the Commission recommended approval of the application with conditions. The County Council held a Public Hearing on this application on October 30, 2001 at which time action was deferred.

Mr. Stickels advised that he, along with Derek Sapp of the Sussex County Engineering Department, has had conversations with FAA. Mr. Stickels stated that the FAA approval process takes three – four months and he suggested that the FAA not be asked to take the time to review the application if Council is not going to support it. Mr. Stickels further stated that if the Council is supportive of the application contingent on FAA's approval, then a site plan can be developed that is acceptable to the FAA, the County, and the Developer.

Old Business

Mr. Cole expressed his opinion that the County should defer action pending FAA's approval.

M 680 01
Adopt
Ordinance
No. 1507
(C/U
No. 1421)

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1507 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ATHLETIC FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 95 ACRES, MORE OR LESS" (Conditional Use No. 1421) filed on behalf of Wallace P. Townsend, Jr., with the following conditions:

1. All ball field lights shall be turned off by midnight.
2. A 25-foot planted buffer shall be maintained along adjoining homes.
3. Dormitories will only be utilized for tournament-related housing for parents and players.
4. Phasing of construction shall be permitted upon preliminary approval of the site plan by the Planning and Zoning Commission, at the developer's own risk.
5. Final approval is contingent upon approval from the FAA.
6. The Planning and Zoning Commission shall approve the final site plan.

Motion Adopted: 4 Yea, 1 Nay.

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

(Mr. Jones noted that he was not present during the Public Hearing on this application; however, he has reviewed the record and listened to the taped proceedings of the Public Hearing. For these reasons, Mr. Jones participated in the vote on this application.)

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 will be consistent with the purposes and goals of the Comprehensive Plan, will promote both youth activity and tourism, thereby stimulating the local economy.
2. With the conditions imposed and with FAA's ultimate oversight, the impact of the use, if any, will be minimized. There will be substantial open space preserved and the on-site activities will not be year-round.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing/
General
Obligation
Bonds

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$11,600,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE PURPOSE OF REFUNDING CERTAIN EXISTING DEBT OF THE COUNTY AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

This Ordinance authorizes the issuance of up to \$11,600,000 in Sussex County, Delaware General Obligation Bonds in order to refund a portion or all of the Sussex County, Delaware General Obligation Refunding Bonds, Series 1993.

Mr. Baker explained that the County is currently paying an interest rate of 5.15 – 5.50 percent on these bonds and that, by issuing new bonds, the interest rate would be in the 2 – 3 percent range, resulting in an estimated savings to the County in the amount of \$300,000. This savings would directly benefit several sewer and water districts.

Mr. Dan Kramer questioned Council on whether this would be an extension of the debt. Mr. Kramer was advised that there would be no extension of the debt – only a reduction of the interest rate.

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

M 681 01
Adopt
Ordinance
No. 1506

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1506 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$11,600,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE PURPOSE OF REFUNDING CERTAIN EXISTING DEBT OF THE COUNTY 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

Pension
Committee
Report

Mr. Baker reported that the Pension Committee met on November 13, 2001 and reviewed the Pension Fund Investment Report, the Pensioner Group Hospital Status, and the Pension Fund Investment Recommendation.

Mr. Baker reported that the stock market has not done well this calendar year, which ultimately has affected the County's Pension Fund. Approximately 60 percent of the County's pension fund investments are invested in stocks, with the remaining 40 percent being invested in bonds. The County's returns have decreased in value approximately 8.6 percent since January 1, 2001 for a total value of \$16,649,690 as of October 31, 2001. This compares to comparable indices of -6.60 percent. The average return for the pension fund, since January 1, 1994, is still 8.56 percent per year, with an actuarial assumption estimate of 8 percent per year. The breakdown of the \$16,649,690 in the County's Pension Fund is: Wilmington Trust --- \$7,487,948; Fidelity Investments --- \$1,939,231; and the State of Delaware Local Government

Pension
Committee
Report
(continued)

Retirement Investment Pool --- \$7,222,511. Fidelity Investments led the three managers with returns of -2.53 percent, followed by Wilmington Trust at -9.30 percent, and the State of Delaware Local Government Investment Retirement Pool at -9.60 percent, for a total of -8.59 percent. Mr. Baker discussed an "Analysis of Returns by Manager for January 1, 1997 through October 31, 2001", which reflects an average annual return of 6.93 percent for Wilmington Trust, 8.63 percent for Fidelity Investments, and 9.59 percent for the Delaware fund.

Mr. Baker explained that the County has budgeted \$1,369,311 this fiscal year to deposit in the County's Pension Fund, which includes a one-time contribution of \$328,812 for the change in the formula for paramedics and dispatchers. In addition, there is approximately \$170,000 in the 1985 Home Mortgage Program Trust Account that is on hold by Wilmington Trust to allow for document review by their attorneys. Once the funds are released to the County, this would bring the total available funds for investment to approximately \$1,539,000. Mr. Baker reported that the County Pension Fund Committee considered investment options and recommended that the County Council invest \$1,000,000 with the State of Delaware Local Government Retirement Investment Pool and to invest the approximate remaining \$539,000 for this fiscal year, with Fidelity Investments.

M 682 01
Authorize
Investment
of Fiscal
2002 Pension
Fund
Contribution

A Motion was made by Mr. Jones, seconded by Mr. Rogers, that the Sussex County Council authorizes investing the Fiscal 2002 pension contribution as follows: \$1,000,000 with the State of Delaware Local Government Retirement Investment Pool and the approximate remaining \$539,000 with Fidelity Investments in a manner that will bring the County's total Fidelity allocation between stocks and bonds at 60 percent stocks and 40 percent bonds.

Motion Adopted: 5 Yea.

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

Pension
Committee
Report
(continued)

Mr. Baker discussed a letter that has been received from Buck Consultants, Inc. a Mellon Consulting Company, regarding pensioner group hospital cost liability. The letter explains that the Governmental Accounting Standard Boards (GASB) is close to completing work on a new proposed principal which would require local governments and counties to recognize liability for group hospital pensioner coverage. Mr. Baker explained that while the decision by the County to provide group hospital coverage for pensioners is a year-to-year decision that is part of the budget, realistically, it is a cost that will continue. The letter also reflects that most public-sector employers fund these benefits on a pay-as-you-go basis, as does each county in Delaware, in addition to the State itself. The proposed standard by GASB would require that employers would have to recognize, in advance, the expected costs associated with benefits for current, as well as future retirees, which could lead to large increases in costs. For the current year, the County has budgeted \$365,000 for pensioner group hospital costs. The State of Delaware spends approximately \$48 million per year on group hospital costs for pensioners, and has begun a fund for their pensioner group hospital costs, budgeting \$7 million this year. Kent County has completed a study which estimated their liability to

Pension
Committee
Report
(continued)

be \$7 million. GASB is considering a proposal that employers begin the funding process for pensioner group hospital costs. The proposal would, most likely, be phased in over a several year period. Mr. Baker commented that the County may want to consider having a study completed to determine the liability amount for pensioner group hospital cost; this study would have an estimated cost of \$15,000, as per the County's actuary (Aon).

M 683 01
Authorize
Negotiation
of an
Agreement
with
County
Actuary

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council authorizes negotiating an agreement with the County Actuary to have an actuarial study completed to analyze the County's Pensioner Group Hospital Liability, subject to approval by the County Administrator and County Attorney.

Motion Adopted: 5 Yea.

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

Verizon
Centrex
Telephone
Contract
Renewal

Mr. Baker advised that Mr. Townsend has been working on a recommendation regarding the County's telephone service. The County currently has approximately 292 Centrex telephone lines in the various County offices that are provided through Verizon. Verizon charges the County a lower than average cost for this linked phone system; the County currently pays \$12.90 per month per line which totals approximately \$45,202.00 annually. The current contract expires on December 3, 2001 and Mr. Baker proposed that the County continue with the Centrex service with Verizon at a lower rate of \$10.50 per month per line which totals \$36,792.00, resulting in a savings of \$8,409.00 annually. This rate is as per the State Contract and would be for a two year period, from December 3, 2001 – January 15, 2003.

M 684 01
Authorize
Agreement
with
Verizon
Delaware/
Centrex
Service
Contract

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to authorize an Agreement with Verizon Delaware, Inc. for the renewal of the Centrex Service Contract for the period December 3, 2001 through January 15, 2003.

Motion Adopted: 5 Yea.

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

SCRWF/
Expansion
No. 2/
Consultant
Agreement

Mr. Izzo, County Engineer, discussed the Proposed Expansion No. 2 to the South Coastal Regional Wastewater Facility. Mr. Izzo reported that the South Coastal Facility went on line in 1977 at which time it had a flow capability of 3 million gallons per day. In the late 1980's, the capacity was expanded (Expansion No. 1) increasing the flow capacity to 6 million gallons per day. Mr. Izzo stated that development continues to occur in this area and it is projected that the South Coastal Facility has a flow capacity available until the year 2008. Mr. Izzo noted however that currently, several portions of the plant are stressed – the sludge handling process and some problems with short term peak flows. For these reasons, the Engineering Department is looking at a preliminary engineering study which will be performed by the firm of

Consultant Agreement (continued)	<p>Stearns and Wheler. The scope of work proposed is to do a lay-out plan for the next expansion; some short term upgrades to the sludge handling facilities; and some modifications to other facilities to deal with the stresses being experienced now. Mr. Izzo reported that the cost of the Proposed Contract is \$160,000.</p>
M 685 01 Approve Agreement/ Stearns & Wheler/ SCRWF Expansion No. 2/ Preliminary Engineering Report	<p>A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the County Engineering Department, that an Agreement with Stearns & Wheler, LLC be approved to provide consulting services for a preliminary engineering report for the second expansion to the South Coastal Regional Wastewater Facility.</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
Ellendale Sanitary Sewer District/ Bid Results	<p>Mr. Izzo, County Engineer, discussed draft bid results for the Ellendale Sanitary Sewer District, Collection and Conveyance, Contract No. 89-16A. This was the second bidding for the contract; the first bidding in May, 2001 was unsuccessful. The Engineering Department then broke the project down into separate contracts which will be bid separately. Contracts B, C, and D have not been bid yet. Mr. Izzo stated that the overall cost of the project and the availability of contractors are problems. Mr. Izzo will report back to Council on the bid for Contract No. 89-16A.</p>
State Route 54 Sewer Relocation/ Bid Results	<p>Mr. Izzo, County Engineer, reported on bid results for State Route 54 Sewer Relocation, Contract No. 01-02. Five bids were received; the low bidder was A.P. Croll & Son, Inc. at the bid amount of \$429,838.50. DelDOT will be funding 100 percent of the costs.</p> <p>Mr. Izzo advised that this is work that needs to be performed in coordination with the SR54 DelDOT project. DelDOT is relocating SR54 and as part of that project, the County needs to relocate a portion of the existing sanitary sewer line.</p>
M 686 01 Award Bid for SR 54 Sewer Relocation Project	<p>A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the County Engineering Department, that Sussex County Project No. 01-02, SR 54 Sewer Relocation, be awarded to A. P. Croll & Son, Inc. of Georgetown, Delaware at the bid amount of \$429,838.50, contingent upon the receipt of approval from the Delaware Department of Transportation.</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
Wastewater Facilities	<p>Mr. Green, Director of Utility Construction, discussed the construction of wastewater facilities in several of the County's sewer districts.</p>

M 687 01 Execute Agreements/ Canal Landing 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. 172, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Rehoboth Beach Associates, L.L.C. for wastewater facilities to be constructed in Canal Landing, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 688 01 Grant Beneficial Acceptance/ Aydelotte Estates 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. 227, that the Sussex County Council grant Beneficial Acceptance for the wastewater facilities constructed in Aydelotte Estates, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 689 01 Execute Agreements/ Gulfstream Development Corporation A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 215, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Gulfstream Development Corporation for wastewater facilities to be constructed in Providence LTD, located in the Ocean View Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 690 01 Grant Beneficial Acceptance A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 214, that the Sussex County Council grant Beneficial Acceptance for the wastewater facilities constructed in Topsail Village, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

M 690 01 (continued)	<p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
M 691 01 Execute Agreements/ Jefferson Bridge Townhouses	<p>A Motion was made by Mr. Phillips, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 239, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and IPM Equities Bethany 2, LLC, for wastewater facilities to be constructed in Jefferson Bridge Townhouses, located in the South Bethany Sanitary Sewer District.</p>
	<p>Motion Adopted: 5 Yea.</p>
	<p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
M 692 01 Execute Agreements/ Harbour Towne Apartments	<p>A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 241, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Dyer, McCrea Ventures, LLC for wastewater facilities to be constructed in Harbour Towne Apartments, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.</p>
	<p>Motion Adopted: 5 Yea.</p>
	<p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
Terminal Apron Expansion/ Change Order No. 2	<p>Mr. Sapp, Project Engineer, discussed Change Order No. 2 to the Sussex County Airport Terminal Apron Expansion. Change Order No. 1 was for additional paving for the Airport Terminal Apron Expansion. This change order, in the amount of \$21,778.85 is for additional work that became necessary during the time of construction and is a result of undetected, lack of existing base material needed for the repaving and miscellaneous items determined in the field that needed to be changed.</p>
M 693 01 Approve Change Order No. 2	<p>A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Change Order No. 2 for Project Number 01-09, Sussex County Airport Terminal Apron Expansion for \$21,778.85, to increase the contract amount from \$724,123.90 to \$745,902.75, contingent upon receipt of the FAA's approval.</p>
	<p>Motion Adopted: 5 Yea.</p>

M 693 01 (continued)	<p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
Proposed Ordinance	<p>Mr. Rogers introduced 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 (18 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS” (Conditional Use No. 1439) filed on behalf of Walter Wilson. The Proposed Ordinance will be advertised for Public Hearing.</p>
Proposed Ordinance	<p>Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (3 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,888 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1440) filed on behalf of Carol Emmert. The Proposed Ordinance will be advertised for Public Hearing.</p>
Proposed Ordinance	<p>Mr. Cole introduced 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 (9 SINGLE FAMILY DETACHED UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.98 ACRES, MORE OR LESS” (Conditional Use No. 1441) filed on behalf of Curtis Ricketts. The Proposed Ordinance will be advertised for Public Hearing.</p>
Proposed Ordinance	<p>Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 8,904 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1442) filed on behalf of Jayant Goyle. The Proposed Ordinance will be advertised for Public Hearing.</p>
Proposed Ordinance	<p>Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO CONDITIONAL USE NO. 1370 BY ADDING RETAIL SALES OF PLAY SETS AND YARD FURNITURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 39.81 ACRES, MORE OR LESS” (Conditional Use No. 1443) filed on behalf of The Barn Yard. The Proposed Ordinance will be advertised for Public Hearing.</p>
M 694 01 Recess	<p>At 12:05 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Jones, to recess until 1:30 p.m. Motion Adopted by Voice Vote.</p>

Public
Hearing
(C/U
No. 1425)

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 STORAGE AND AN OFFICE FOR A LOCAL PLUMBING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 23,700 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1425) filed on behalf of Brice and Wanda M. Butler.

The Planning and Zoning Commission held a Public Hearing on this application on October 25, 2001 at which time they recommended approval with stipulations. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

The County Council opened the public hearing on this application on November 13, 2001 and then recessed the public hearing to November 27, 2001 for continuation of the public hearing, due to a request from residents in the area since they could not attend due to a funeral.

The Council found that Brice and Wanda Butler, and Tim Willard, Attorney, were present on behalf of the application. They stated that the proposed use is for a small plumbing business; that the site is zoned AR-1 Agricultural Residential; that the site is located within the Development District; that there is a mixed use of residential and commercial uses in the area; and that the proposed use will not disrupt the area.

Public comments heard in opposition to the application referred to additional truck traffic and noise; referred to the fact that the area is residential; and questioned whether this would set a precedent for future conditional uses and change of zones in the area.

The Public Hearing was closed.

M 695 01
Adopt
Ordinance
No.1508
(C/U
No. 1425)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1508 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE AND AN OFFICE FOR A LOCAL PLUMBING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 23,700 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1425) filed on behalf of Brice and Wanda M. Butler, with the following conditions:

1. The hours of operation shall be from 7:30 a.m. to 6:00 p.m. Monday through Friday. Emergency services may be permitted on Saturdays. There shall be no Sunday hours.
2. The site shall be landscaped with Leyland Cypress around the perimeter of the parking area and the front of the site shall be landscaped.
3. No outside storage shall be permitted other than company vehicles, and only if properly screened.

M 695 01
(continued)

4. Signage shall be limited to the building and may be illuminated.
5. Lighting shall be limited and directed towards the building and parking area for security purposes.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all agency approvals.
7. The building to be constructed shall be a morton-type building comparable to those building styles presented to County Council on November 27, 2001.

Motion Adopted: 4 Yea, 1 Nay.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Nay;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, 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 will not be a retail location, will serve as an office for a local business that serves the area, and with the conditions hereafter imposed, will have no adverse impact of any sort, and in fact, may enhance the area.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1426)

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 BULK PROPANE STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.14 ACRES, MORE OR LESS" (Conditional Use No. 1426) filed on behalf of Cedar Beach Enterprises.

The Planning and Zoning Commission held a Public Hearing on this application on November 8, 2001 at which time they recommended that the application be approved with stipulations. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

The Council found that Don Steiner of Cedar Beach Enterprises was present on behalf of his application. Mr. Steiner advised that the site is presently improved with a bulk storage facility for fuel and gasoline; that propane tank trucks are already parked on the site; that he has no objection to installing fencing; and that the proposed 18,000 propane tank will be partially underground.

(continued)	There were no public comments and the Public Hearing was closed.
M 696 01 Adopt Ordinance No. 1509 (C/U No. 1426)	A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1509 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BULK PROPANE STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.14 ACRES, MORE OR LESS" (Conditional Use No. 1426) filed on behalf of Cedar Beach Enterprises, with the following stipulations: <ol style="list-style-type: none">1. The area around the proposed mounded propane storage tank shall be fenced and bumpered subject to the approval of the Office of the State Fire Marshal..2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
	Motion Adopted: 5 Yea.
	Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
Findings of Fact	The Council found that the conditional use was appropriate legislative action based on the following findings of fact: <ol style="list-style-type: none">1. The applicant established by substantial evidence that the proposed use will serve the Lewes – Rehoboth and south coastal area on a site already established for fuel supply purposes, and thus is consistent with the purposes and goals of the Comprehensive Land Use Plan.2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.
Public Hearing (C/U No. 1427)	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 SHOWROOM AND COUNTERTOP SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 5.91 ACRES, MORE OR LESS" (Conditional Use No. 1427) filed on behalf of Michael Biggs.
	The Planning and Zoning Commission held a Public Hearing on this application on November 8, 2001 at which time they recommended that the application be approved with stipulations. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.
	The Council found that Michael Biggs was present and stated in his presentation that he operates a cabinet dealership and builds countertops; that he proposes to build a showroom to display his cabinets and countertops, and that he proposes to build a

Public Hearing (continued)	workshop for construction of the countertops. There were no public comments and the Public Hearing was closed.
M 697 01 Adopt Ordinance No. 1510 (C/U No. 1427)	A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1510 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SHOWROOM AND COUNTERTOP SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 5.91 ACRES, MORE OR LESS" (Conditional Use No. 1427) filed on behalf of Michael Biggs, with the following conditions: <ol style="list-style-type: none">1. The conditional use area shall be reduced to a depth of 300-feet parallel to Route 32, rather than the entire parcel.2. Fabrication and construction hours shall be from 8:00 a.m. to 5:00 p.m. Monday through Saturday, with no Sunday hours.3. No work shall be performed outside.4. There shall be no outside storage of materials.5. One 32 square foot, two-sided, lighted ground sign may be permitted.6. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
	Motion Adopted: 5 Yea.
	Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
Findings of Fact	The Council found that the conditional use was appropriate legislative action based on the following findings of fact: <ol style="list-style-type: none">1. The applicant established by substantial evidence that the proposed use will serve the area without adverse impact of any sort, consistent with the purposes and goals of the Comprehensive Land Use Plan.2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.
Public Hearing (C/U No. 1433)	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 FIRE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.53 ACRES, MORE OR LESS" (Conditional Use No. 1433) filed on behalf of Lewes Fire Department, Inc. and the

Public
Hearing
(C/U
No. 1433)
(continued)

Rehoboth Beach Volunteer Fire Company, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on November 8, 2001 at which time they recommended that the application be approved with stipulations. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

The Council found that H. Edward Maull, Jr., Attorney; Lou Rickards, President of Lewes Fire Department; and Howard Blizzard, President of Rehoboth Beach Volunteer Fire Company were present on behalf of the application. They stated that they propose to jointly use the fire station; that a deed will be prepared in joint names of the two fire companies; that the site contains approximately 2 acres which is adequate for the use; that the site has access to two public roads; and that the use will be a public benefit.

There were no public comments and the public hearing was closed.

M 698 01
Adopt
Ordinance
No. 1511
(C/U
No. 1433)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1511 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FIRE STATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.53 ACRES, MORE OR LESS" (Conditional Use No. 1433) filed on behalf of Lewes Fire Department, Inc. and the Rehoboth Beach Volunteer Fire Company, Inc., with the following condition:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, 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 a model conditional use application, since it serves the health and safety of several communities at a central location and provides necessary infrastructure for a growing area, without adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING

Public Hearing (C/Z No. 1452) (continued) IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 43,478 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1452) filed on behalf of Dr. Joel Halpern.

The Planning and Zoning Commission held a Public Hearing on this application on November 8, 2001 at which time they recommended that the application be approved. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

The Council found that David Weidman, Attorney, and Dr. Joel Halpern were present and stated that the application is intended to rezone a residential lot next to the Post Office (in Millville) to B-1 Neighborhood Business so that Dr. Halpern can build an office on the site.

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

M 699 01 Adopt Ordinance No. 1512 (C/Z No. 1452) A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1512 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 43,478 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1452) filed on behalf of Dr. Joel Halpern..

Motion Adopted: 5 Yea.

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

Findings of Fact The Council found that the change of zone was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the change of zone is consistent with the Comprehensive Development Plan and maps and as developed, will serve the convenience of the surrounding area, without adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing (C/Z No. 1453) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.71 ACRES, MORE OR LESS" (Change of Zone No. 1453) filed on behalf of Yoder's Care Center, Inc.

Public
Hearing
(C/Z
No. 1453)
(continued)

The Planning and Zoning Commission held a Public Hearing on this application on November 8, 2001 at which time they recommended that the application be approved. The report of the Planning & Zoning Commission was made a part of the record of this public hearing.

The Council found that Mark Yoder was present on behalf of his application. Mr. Yoder stated that he has operated a nursing home on the premises; that present regulations are tough for a small nursing home; that he has had to close the nursing home; and that a tenant would like to utilize the site for an office.

There were no public comments.

M 700 01
Adopt
Ordinance
No. 1513
(C/Z
No. 1453)

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Ordinance No. 1513 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.71 ACRES, MORE OR LESS" (Change of Zone No. 1453) filed on behalf of Yoder's Care Center, Inc.

Motion Adopted: 5 Yea.

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

Findings
of Fact

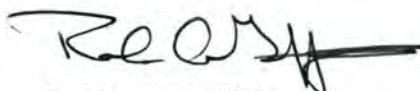
The Council found that the change of zone was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the change of zone will bring the site, a pre-existing non-conforming use, into conformity with the Comprehensive Plan, without adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 701 01
Adjourn

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to adjourn at 2:55 p.m.
Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council