

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 30, 1999

Call to Order            The regular meeting of the Sussex County Council was held Tuesday, November 30, 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 642 99  
Amend  
and  
Approve  
Agenda

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the Agenda, as follows:

add "Proclamation Honoring Jack Roach";

delete "Cash Management Account"; and

reverse the order of the Agenda items listed under Russell Archut, Assistant County Engineer; 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 643 99  
Approve  
Minutes

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to approve the minutes of the previous meeting, dated November 16, 1999.

Motion Adopted: 5 Yea.

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

Correspondence

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

YMCA, SUSSEX FAMILY BRANCH, REHOBOTH BEACH, DELAWARE.  
RE: Letter in appreciation of Grant.

JUDY FORD, PRESIDENT, FRIENDS OF THE SOUTH COASTAL LIBRARY, INC., BETHANY BEACH, DELAWARE.

RE: Letter requesting funding for programs, services and expansion.

DELAWARE TECHNICAL & COMMUNITY COLLEGE, GEORGETOWN, DELAWARE.

RE: Letter requesting funding for the baseball and softball teams' annual spring training trip.

Recorder of Deeds Agreement/ ACS Government Records Management

Mr. Stickels advised that on November 16, 1999, the County Council authorized the County Administrator, Finance Director, and Recorder of Deeds to negotiate an amendment to the contract with ACS Government Records Management for the use of new scanning technology to computerize documents. Currently, the County provides index information on computer, but not copies of documents. The contract amendment will allow the County to provide copies of documents via personal computers in the Recorder of Deeds Office.

ACS proposed a cost of \$4.75 per instrument; following negotiations, a cost of \$4.45 per instrument was agreed upon. The cost of \$4.45 per instrument will result in an approximate annual cost of \$222,500. This price will include twenty-nine stations that will be provided in the Recorder of Deeds Office in addition to dedicated phone lines.

The contract will be for a term of three years with two one-year options.

Human Service Grant Requests

Mr. Stickels advised Council of the receipt of Human Service Grant requests from the Dagsboro Church of God and El Centro Cultural, Inc. Mr. Stickels remarked that these two requests were received by the deadline; however, due to some confusion, they were not incorporated in the recommended distribution.

Mr. Stickels requested clarification from Council on the cap that was established on Human Service Grant funding at the November 9, 1999, Council meeting. Mr. Stickels questioned whether the funding was capped at \$112,650 or \$125,000 for Fiscal 2000. Mr. Phillips advised that he made the Motion to establish the cap and it was his intent upon making the Motion that the funding be capped at \$112,650.

Comments were heard that these requests should be considered as they were received prior to the deadline. Mr. Phillips expressed his belief that Council should abide by the cap that was established.

M 644 99  
Authorize  
Human  
Service  
Grant  
Requests

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to fund the Human Service Grant requests of the Dagsboro Church of God (\$1,000) and El Centro Cultural, Inc. (\$1,000) which will exceed the established cap of \$112,650 with the understanding that no more requests will be considered during Fiscal 2000.

Motion Adopted: 4 Yea, 1 Nay.

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

M 645 99  
Adopt  
Proclamation

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt the Proclamation entitled "PROCLAIMING SATURDAY, DECEMBER 4, 1999, AS A DAY TO HONOR JACK ROACH".

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. Proposed Oak Orchard Sanitary Sewer District

The Sussex County Engineering Department will hold a Public Hearing on Saturday, December 4, 1999, at 9:00 a.m. at the Indian River Volunteer Fire Department in Oak Orchard, Delaware. The purpose of the hearing is to explain the findings of the Preliminary Engineering Report that was prepared for the proposed Oak Orchard Sanitary Sewer District and present user cost estimates. There will be an opportunity for questions and answers. The referendum will be held on the following Saturday, December 11, 1999, between 8:00 a.m. and 4:00 p.m. at the same location.

For any additional information, please contact the Engineering Department, Planning and Permits Division, at 855-7719.

2. Sussex County Office Closure

Sussex County offices will be closed on Tuesday, December 7, 1999, between the hours of 11:30 a.m. and 1:30 p.m. to allow employees to attend the annual Mildred King Christmas Luncheon.

3. Community Development Block Grant

I have received notification from the Delaware State Housing Authority that

Adminis-  
trator's  
Report  
(continued)

Sussex County will receive \$1,026,300 in Community Development Block Grant funding. Projects funded from the grant are:

|                      |                        |           |
|----------------------|------------------------|-----------|
| Blades               | Demolition             | \$ 15,000 |
|                      | Water Treatment Plant  | \$140,000 |
| Bridgeville          | Housing Rehabilitation | \$ 30,000 |
| Coverdale Crossroads | Housing Rehabilitation | \$ 30,000 |
| Dagsboro             | Housing Rehabilitation | \$ 30,000 |
| Delmar               | Housing Rehabilitation | \$ 30,800 |
| Ellendale            | Housing Rehabilitation | \$ 45,000 |
| Frankford            | Housing Rehabilitation | \$ 45,000 |
| Georgetown           | Code Enforcement       | \$ 13,000 |
|                      | Street Repair          | \$ 5,000  |
| Greenwood            | Housing Rehabilitation | \$ 30,000 |
|                      | Water Line             | \$ 22,000 |
|                      | Demolition             | \$ 7,500  |
| Laurel               | Rehabilitation         | \$ 60,000 |
| Middleford           | Housing Rehabilitation | \$ 30,000 |
| Milford              | Housing Rehabilitation | \$ 30,000 |
| Millsboro            | Housing Rehabilitation | \$ 44,000 |
| Milton               | Housing Rehabilitation | \$ 28,000 |
|                      | Fire Hydrants          | \$ 14,000 |
| Rural Sites          | Housing Rehabilitation | \$225,000 |
| Seaford              | Housing Rehabilitation | \$ 60,000 |
| Selbyville (Rural)   | Housing Rehabilitation | \$ 25,000 |
| Selbyville           | Housing Rehabilitation | \$ 24,000 |



Adminis-  
trator's  
Report  
(continued)

|                                  |            |
|----------------------------------|------------|
| Criminal Arrests: Felony         | 30         |
| Misdemeanor                      | <u>109</u> |
| Total Criminal Arrests           | 139        |
| Total 10-29 P's (wanted persons) | 52         |
| Total Number of Complaints       | 674        |

7. Milton Library Hours

As has been the custom for many years, the Milton Library will close at 6:00 p.m. on Wednesday, December 1, 1999, for the Milton Christmas Parade. In addition, the library will remain open until 7:00 p.m. on Saturday, December 11, 1999, in conjunction with the Holly Festival and House Tour. Friends of the Milton Library are hosting an art show at the library featuring the work of Dorothy Hurd, Library Assistant at Milton, and her husband, Claude. The public is encouraged to visit the Milton Library for this exhibit.

8. Senior Citizen School Property Tax Credit Program

The County Tax Division is still receiving Senior Citizen School Property Tax Credit applications without verification of age. A reminder that in addition to completing the application form and signing it at the bottom, a copy of a driver's license, birth certificate, or other proof of age is needed. Anyone who has already returned an application without proof of age does not have to complete another application, if they would just forward a copy of proof of age to the County Tax Division at P. O. Box 429, Georgetown, Delaware 19947 or call the office at 855-7760 if they have any questions.

9. Carolling on The Circle

A reminder that Carolling on The Circle will take place Monday, December 6, 1999, starting at 6:30 p.m. Entertainment will be provided by Bunky Eye with a guest appearance by Floyd Megee, Jr. Sonia Taylor, WBOC-TV New Department, will be Master of Ceremonies. The 17th Annual Carolling on The Circle is the County's primary food drive to help stock pantries throughout the County for the year. This year's theme is "Sussex Countians Helping Sussex Countians". Anyone needing assistance in transporting food should call 855-7743. Food donations may be left at the County Administration Building on The Circle in Georgetown during normal business hours.

Tax  
Rebate  
Checks

Mr. Baker advised that the State of Delaware is mailing out tax rebate checks to residents in the Indian River School District. These checks are not to be confused with rebate checks that will be mailed out by the State in early 2000 for the Senior Citizen School Property Tax Credit Program.

Newspaper  
Articles

Mr. Phillips questioned comments written in the Delaware State News and the News Journal regarding development in Sussex County and a compromise that Mr. Stickels has presumably indicated is in the works with the State regarding the State's Land Use Plan and the County's Land Use Plan and an apparent promise by the zoning officials not to develop certain areas of the County. Mr. Stickels stated that he is not in a position to strike any deals. Mr. Stickels also stated that he has not seen the articles and that he would like the opportunity to do so.

Bid  
Results/  
Re-chassis  
of  
Vehicles

Mr. Torbert, Paramedic Director, reported on the bid results for the re-chassis of three utility box style vehicles. Bids were received from Swab Wagon Company, Inc. of Elizabethville, Pennsylvania, and Chief's Fire & Rescue, Inc., of Jefferson, North Carolina, as follows:

|                      | <u>Swab</u>     | <u>Chief's</u>  |
|----------------------|-----------------|-----------------|
| Base Re-chassis      | \$13,141        | \$21,905        |
| Option 1 (Painting)  | \$ 3,660        | \$ 2,675        |
| Option 2 (Lettering) | \$ 1,110        | \$ 1,575        |
| Option 3 (Re-keying) | \$ 0            | \$ 250          |
| Option 4 (Aux. HVAC) | <u>\$ 4,940</u> | <u>\$ 2,000</u> |
| Total                | \$22,841        | \$28,405        |

Mr. Torbert reported that \$61,509.00 has been budgeted for this project.

Mr. Torbert advised that the bids have been reviewed and it is recommended that the bid be awarded to Swab Wagon Company, Inc., as follows:

|                      |                 |
|----------------------|-----------------|
| Base Re-chassis      | \$13,141        |
| Option 1 (Painting)  | \$ 3,660        |
| Option 2 (Lettering) | <u>\$ 1,110</u> |
| Total                | \$17,911        |

M 646 99  
Award  
Bid/  
Re-chassis  
of Vehicles

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to award the bid for the re-chassis of three utility box style vehicles to Swab Wagon Company, Inc. in the amount of \$17,911.

Motion Adopted: 5 Yea.

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

Bid  
Results/  
Paging  
Equipment  
(UHF)

Mr. Thomas, Director of Emergency Operations, reported on the bid results for Sussex County Project EOC – 05, Paging Equipment (UHF), as follows:

|  |             |
|--|-------------|
| Delmarva Communications, Inc.<br>New Castle, Delaware  | \$75,062.34 |
| Comm-tronics, Inc.<br>Glen Burnie, Maryland            | \$74,360.00 |
| Caldabaugh Communications, Inc.<br>Salisbury, Maryland | \$61,850.00 |

Mr. Thomas reported that \$75,000 has been budgeted for this project.

M 647 99  
Award  
Bid/  
Paging  
Equipment

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to award the bid for Sussex County Project EOC – 05, Paging Equipment (UHF) to Caldabaugh Communications, Inc. in the amount of \$61, 850.

Motion Adopted: 5 Yea.

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

Regional  
Training  
Facility

Mr. Thomas, Emergency Operations Director, presented a proposal for the County's Emergency Operations Center to become a Regional Training Facility for the Medical Priority Emergency Medical Dispatch System. With a training site designation, the National Academy of Emergency Medical Dispatch would recognize the Sussex County Emergency Operations Center as an official training institution. Debbie Jones, who is currently in charge of Quality Assurance for the County's Emergency Operations Center, is a certified instructor through the National Academy. A training site designation would be beneficial when applying for the Center's accreditation, which is mandated in the new EMS legislation. Once the Center is accredited as a training site, the County would be eligible for a reduction in the cost of certification on each new student. With this designation, the Emergency Operations Center would be able to allow students from neighboring counties to attend EMD classes. These students would be charged a fee to attend the classes. Any amounts set by Sussex County over the amount needed to be sent to the National Academy of EMD (\$175.00 per student) would be kept by the County. There is a one-time fee in the amount of \$3,500 for the training center license. This cost includes the license and all of the instructor's materials associated with EMD training.

M 648 99  
Authorize  
Regional  
Training  
Center

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to authorize Sussex County's Emergency Operations Center to become a Regional Training Facility for the Medical Priority Emergency Medical Dispatch System through the National Academy of Emergency Medical Dispatch for a fee of \$3,500.

M 648 99  
(continued)

Motion Adopted: 5 Yea.

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

Training  
Fee

Council asked Mr. Thomas to report back with a recommended fee for the training program. Council reminded Mr. Thomas that the program should not result in any financial loss to the County.

Proposed  
Oak  
Orchard  
SSD/  
Preliminary  
Engineering  
Report

Mr. Archut, Assistant County Engineer, and representatives of Cabe Associates, Inc. reviewed the Preliminary Engineering Report for the Proposed Oak Orchard Sanitary Sewer District. Sussex County's consultants, Cabe Associates, Inc., have recommended a standard gravity wastewater collection system for the proposed district. The wastewater will be collected at a central pumping station and pumped to the County's existing Inland Bays Wastewater Treatment Facilities. Cabe Associates, Inc. has determined that using the County's existing Inland Bays Wastewater Treatment Facilities is the preferred method of treating wastewater from the Oak Orchard area.

The estimated construction cost of the project including legal, administration, engineering, and other related items is \$7,694,000. The County anticipates financing the project through a loan from the Water Pollution Control Revolving Fund administered by the State of Delaware at an annual interest rate of 1.5 percent for 20 years.

The construction cost of the project will be recovered through an annual front foot (FF) assessment charge, while the cost of operating and maintaining the system will be recovered through an annual service charge. All properties are required to pay the annual front foot assessment charge, while only improved properties pay the annual service charge. The County will also use a system connection charge to collect the costs for the use of the existing Inland Bays Wastewater Treatment Facility. This is a one-time fee that is required before connecting to the system. The estimated fees are as follows:

Service Charge: \$225.00/home/year

Assessment Charge: \$6.67/FF/year

System Connection Charge: \$1,100/home

A Public Hearing will be held on the Proposed Oak Orchard Sanitary Sewer District on December 4, 1999, followed by a Referendum on December 11, 1999.

Grant  
Funding/  
Sewer

A discussion ensued regarding the need for grant funding for sewer projects. The County will pursue all avenues for grant funding for this project as it has in the past for other sewer districts.

Grant  
Funding/  
Sewer  
(continued)

Mr. Cole expressed his desire that the County establish a grant program to provide funding for the establishment of sewer districts. Mr. Cole suggested that funds from the 1% transfer tax could be used for sewer projects. Mr. Cole was advised that \$800,000 of these funds have already been utilized for sewer projects.

Mr. Phillips questioned whether sewer projects would qualify for funding from State tobacco money. Council directed Mr. Stickels to investigate the criteria established to receive this funding.

Mr. Archut advised that the Delaware Department of Natural Resources and Environmental Control is working on improving their process of accepting grant applications.

Capacity  
Evaluation  
and Planning  
Study/  
West  
Rehoboth

Mr. Archut discussed the Capacity Evaluation and Planning Study for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District that was presented to Council on November 16, 1999. At that time, it was the consensus of Council to defer action until November 30, 1999, to give Council the opportunity to read and consider the report. Mr. Archut entertained questions from Council.

M 649 99  
Adopt  
Capacity  
Evaluation  
and Planning  
Study/  
West  
Rehoboth

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council hereby adopts the Capacity Evaluation and Planning Study for the West Rehoboth Expansion Area of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Red Mill  
Pond South/  
Change  
Order

Mr. Izzo, County Engineer, discussed Change Order No. 3 to Sussex County Project No. 96-03, Contract WR III-1, Red Mill Pond South. The change order, in the amount of \$7,700,000, is for additional work to install a 200 foot extension to the existing turn lane. This work will be billed to Sussex County and be reimbursed with legislative funds from State Representative John Schroeder.

M 650 99  
Approve  
Change  
Order/  
Red Mill  
Pond South

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based on the recommendation of the Consulting Engineer, George, Miles & Buhr, LLP, and the Sussex County Engineering Department, that Change Order No. 3 for Sussex County Project No. 96-03, Contract WR III-1, Red Mill Pond South, be approved in the amount of \$7,700.00 to extend the right turn lane on County Road 265 by 200-foot, which increases the contract amount from \$4,872,852.04 to \$4,880,552.04.

M 650 99  
(continued)

Motion Adopted: 5 Yea.

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

Red Mill  
Pond  
North/  
Change  
Order

Mr. Izzo, County Engineer, discussed Change Order No. 2 to Sussex County Project No. 96-03, Contract WR III-2, Red Mill Pond North. The change order is for a time extension of thirteen (13) calendar days based on inclement weather and an incident that resulted in a construction delay. The contract completion date is scheduled for November 30, 1999.

M 651 99  
Approve  
Change  
Order/  
Red Mill  
Pond  
North

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Consulting Engineers, George, Miles & Buhr, LLP, and the Sussex County Engineering Department that the Sussex County Council approves Change Order No. 2 for Sussex County Project No. 96-03, Contract WR III-2 Red Mill Pond North, which issues a thirteen (13) calendar day time extension to Teal Construction, Inc. and extends the date of substantial completion to November 30, 1999.

Motion Adopted: 5 Yea.

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

M 652 99  
Grant  
Substantial  
Completion/  
Red Mill  
Pond  
North

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based on the recommendation of the Consulting Engineer, George, Miles & Buhr, LLP, and the Sussex County Engineering Department, that effective November 30, 1999, the Sussex County Council grants Substantial Completion to Teal Construction, Inc. for Sussex County Project No. 96-03, Contract WR III-2, Red Mill Pond North, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yea.

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

Five  
Points  
North

Mr. Izzo, County Engineer, discussed Change Order No. 2 for Contract WR III-3, Five Points North. The change order is for a time extension of twenty-one (21) calendar days for lost workdays due to inclement weather and unresolved electrical power coordination issues.

M 653 99  
Approve  
Change  
Order/  
Five  
Points  
North

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon the recommendation of the Consulting Engineers, George, Miles & Buhr, LLP, and the Sussex County Engineering Department, that the Sussex County Council approves Change Order No. 2 for Contract WR III-3, Five Points North, which issues a twenty-one (21) calendar day time extension to L.A. Merrell Construction Co., Inc. and extends the contract time to December 10, 1999.

Motion Adopted: 5 Yea.

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

Proposed  
Ordinance

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 OFFICE FOR SURVEYING FIRM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.11 ACRES, MORE OR LESS" (Conditional Use No. 1323) filed on behalf of Theodore B. Simpler. The Proposed Ordinance will be advertised for Public Hearing.

Proposed  
Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 887.03 ACRES, MORE OR LESS" (Change of Zone No. 1393) filed on behalf of CMF Bayside, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

Request  
for  
Resolution

Mr. Myer and Ms. Becker were in attendance to request that Council consider the adoption of a Resolution supporting the review of health-related issues concerning abortions in the State of Delaware.

M 654 99  
Council-  
manic  
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$125.00 from Mr. Dukes' Councilmanic Account to the Seaford Baseball Boosters for improvements to the high school baseball field.

Motion Adopted: 5 Yea.

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

Award

Mr. Stickels advised that on November 16, 1999, Sussex County Council received a Government Partnership Award from Delaware Health and Social Services for community leadership in aging.

M 655 99  
Recess At 12:30 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Jones called Council back into session at 1:42 p.m.

Conflict  
of  
Interest Mr. Phillips announced that he would not be participating in the Public Hearing for Conditional Use No. 1314, Perdue – AgriRecycle, Inc., due to an apparent conflict of interest. Mr. Phillips excused himself from the meeting.

Public  
Hearing  
(C/U  
No. 1314) 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 MICRO-NUTRIENT PLANT WITH RELATED TRUCK ENTRANCE AND RAIL SPUR FOR THE PROCESSING AND HANDLING OF POULTRY LITTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS” (Conditional Use No. 1314) filed on behalf of Perdue-AgriRecycle, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on November 4, 1999, at which time action was deferred. On November 18, 1999, the Commission discussed the application and recommended approval with fourteen (14) stipulations. The record of the Planning & Zoning Commission, along with the findings of fact and recommended stipulations, were made a part of the record.

Mr. Sergovic, Attorney, was present on behalf of the applicants and stated that his clients are requesting a Conditional Use for a Micro-Nutrient Facility with related truck entrance and rail spur for the processing and handling of poultry litter. The following Exhibits were presented relating to the application:

Exhibit 1:  
Planning and Zoning Commission Report.

Exhibit 2:  
Booklet outlining the proposal for the Micro-Nutrient Facility.

Exhibit 3:  
Traffic Report from The Traffic Group.

Exhibit 4:  
Pellets

Exhibit 5:  
Letter from Delaware Department of Transportation (Rescinded).

Exhibit 6:  
Letter from Randall Handy regarding property values.

Public  
Hearing  
(continued)

Exhibit 7:  
Letter from Jack Tarburton, Secretary of the Department of Agriculture, in support of the application.

Exhibit 8:  
Letter from Carl J. Solberg, Delaware Chapter of the Sierra Club, in support of the application.

Exhibit 9:  
Proposed findings of fact and changes to the stipulations of the Planning & Zoning Commission prepared by Mr. Sergovic.

Exhibit 10:  
Memo from the Delaware Nature Society in support of the application.

Persons present in support of the application who addressed Council were Keith Reinhart, Vice President of Environmental Services for Perdue; Mike Ferguson of AgriRecycle, Inc.; Wayne Hudson, General Manager for Perdue-AgriRecycle, LLC; Allen Redden, South District Engineer for DelDOT; Randall Handy, real estate appraiser; William Vanderwende, Chairman of the Nutrient Management Commission; John Hughes, Director of the Division of Soil and Water Conservation of the State of Delaware; Dale Boyce, Chairman of the Delmarva Growers Committee; Dr. Bruce Richards, Executive Director for the Center for the Inland Bays; Gary Smith of the Delaware Economic Development Office; and Charles P. West, II, member of the Nutrient Management Commission. The comments of these speakers are incorporated in detail in the report of the Planning & Zoning Commission.

Comments in support of the application focused on the formation of the relationship between AgriRecycle, Inc. and Perdue Farms; an overview of the proposal; site selection/plant location; poultry litter procurement; bio-security; facility design; transportation; land value; and economic and environmental benefits.

Mr. Jones declared a recess at 4:35 p.m.

Mr. Jones called Council back into session at 4:47 p.m.

Mr. Malkiewicz, Attorney, was present on behalf of the citizens opposed to the application. Mr. Malkiewicz emphasized that the applicant repeatedly states that the application is for a Micro-Nutrient Facility when in fact it is for a fertilizer manufacturing plant; a chicken manure plant. Mr. Malkiewicz presented information, which he believes proves that the application is not a permitted use in accordance with the Sussex County Code. He stated that the application is for an industrial use; that manure plants and rail spurs are classified as heavy-industrial and hazardous; and for this reason are not permitted in a residential area and, in fact, this use should be located in an industrial park. He stated that a manure plant is not listed as a permitted conditional use; that according to the

Public  
Hearing  
(continued)

Sussex County Code, fertilizer and manufacturing plants are not even permitted in light-industrial zoning districts.

Mr. Malkiewicz stated that Perdue AgriRecycle has no experience with this type of plant or technology; that there are other locations more suitable for this type of facility; that the use is not public or semi-public in nature; that bio-security standards for hauling poultry waste have not been established; that no schedule or regulations on delivery have been established; that excess noise will be created by the shifting of rail cars; and that no evidence exists that there will not be an odor problem.

The following Exhibits were submitted on behalf of the opposition:

Exhibit 1:

Letter of opposition from Ann Davis with a petition of over 1,000 signatures.

Exhibit 2:

Booklet prepared by Mr. Malkiewicz outlining Exhibits A through Exhibit Q:

Exhibit A:

Application for Zoning Map Amendment or Conditional Use.

Exhibit B:

Articles relating to Poultry Pollution and the Applicant's (Proposed) Plant.

Exhibit C:

Applicant's rationale for Conditional Use under Sussex County Zoning Code.

Exhibit D – Exhibit K:

Zoning section of the Sussex County Code.

Exhibit L:

Applicant's proposed Findings of Fact.

Exhibit M:

Position Statement by State Department of Transportation.

Exhibit N:

Position Statement by State Office of State Planning Coordination – Strategies for State Policies and Spending on Rural Areas.

Exhibit O:

Freedom of Information Act response from State Department of Agriculture – Bio-Security Standards of Manure Hauling.

Exhibit P:

Applicant's application for Federal EPA Funding - \$50,000.

Public  
Hearing  
(continued)

Exhibit Q:  
Truck traffic calculations.

Exhibit 3:  
Letter from Victor Moore in opposition to the application.

Exhibit 4:  
Letter from Pat Bonniwell in opposition to the application.

Persons present in opposition to the application who addressed Council were Sherry Clark, Russell Ebron, Tom McDonald, Gwen Davis, Barbara Constantine, Dan Lawson and Richard Bolton. The comments of these speakers are incorporated in detail in the report of the Planning & Zoning Commission. Comments focused on concerns about the construction of the facility; the inconsistent information provided by the applicant; the need for additional public hearings; the effect on property values; truck traffic; the safety of children; quality of life; that the use is industrial; expansion of the facility; the lack of statistical data on the operation; bio-security; lack of information provided to area residents; noise level; odor; run-off; and the lack of cooperation by State and County agencies to provide information upon request.

It was the consensus of Council to defer action on this application to permit the review of the documentation presented and consideration of the input received. The Public Hearing was closed; however, it was the consensus of Council to leave the record open for closing argument from Mr. Sergovic and Mr. Malkiewicz. Additional written public comments will also be accepted. Comments are to be limited to information currently in the record. The record will remain open until the close of business on December 7, 1999.

Mr. Phillips rejoined the meeting at the conclusion of the Public Hearing.

M 656 99  
Council-  
manic  
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$300.00 from Mr. Rogers' Councilmanic Account to Milton Community Christmas Parade for expenses.

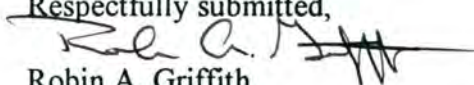
Motion Adopted: 5 Yea.

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

M 657 99  
Adjourn

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to adjourn at 6:30 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

  
Robin A. Griffith  
Clerk of the Council