

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 7, 1999

Call to Order The regular meeting of the Sussex County Council was held Tuesday, December 7, 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 658 99 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve Approve Agenda the Agenda, as presented.

Motion Adopted: 5 Yea.

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

M 659 99 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve Amend and Approve Minutes the minutes of the previous meeting, dated November 30, 1999, with an amendment to Motion No. M 646 99, as follows:

“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 per re-chassis for a total of \$53,733 for the project.”

Motion Adopted: 5 Yea.

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

Corre- Mr. Bayard read the following correspondence:
spondence

Corre-
spondence
(continued)

AIR QUALITY MANAGEMENT, DIVISION OF AIR AND WASTE MANAGEMENT, DOVER, DELAWARE.

RE: Legal Notice regarding the State of Delaware Implementation Plan for the Attainment and Maintenance of the National Ambient Quality Standards for Ozone.

AIR QUALITY MANAGEMENT, DIVISION OF AIR AND WASTE MANAGEMENT, DOVER, DELAWARE.

RE: Legal Notice that the Secretary of the Department of Natural Resources and Environmental Control has issued Secretary's Order No. 99-A-0060 to Motiva Enterprises, LLC.

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW JERSEY.

RE: Notice of Commission Meeting and Public Hearing.

Letters were received from customers of Public Water Supply Co. in opposition to the recently requested rate increase. It was noted that comments regarding the requested rate increase should be directed to the Public Water Commission.

Corre-
spondence
Relating
to C/U
No. 1314
Perdue-
AgriRecycle
L.L.C.

Letters and petitions were also received regarding the application of Perdue-AgriRecycle, L.L.C. (Conditional Use No. 1314). Mr. Bayard advised Council of the following correspondence:

SECRETARY OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DOVER, DELAWARE.

RE: Copy of Title 76005 and Regulation No. 19, both of which deal with control of odor.

KEN AND KAREN HUFFMAN, SEAFORD, DELAWARE.

RE: Letter in opposition.

JIM ELLIOTT, CENTER FOR THE INLAND BAYS, LEWES, DELAWARE.

RE: Letter in support.

MR. AND MRS. JOHN CHADWICK, BETHEL, DELAWARE.

RE: Letter in opposition.

SHARON TULLY, LAUREL, DELAWARE.

RE: Letter in opposition.

B. A. CONSTANTINE, LAUREL, DELAWARE.

RE: Letter in opposition.

JERRY TAYLOR, SEAFORD, DELAWARE.

RE: Letter in opposition.

Perdue-
AgriRecycle
L.L.C.
(continued)

GEORGE ANDERSON, BETHEL, DELAWARE.
RE: Letter in opposition.

JOHN AND MARIANNE FORD, BETHEL, DELAWARE.
RE: Letter in opposition.

CHERIE ANN CLARK, LAUREL, DELAWARE.
RE: Letter in opposition.

Also received was a petition signed by 38 people in support of the application.

Also received was a phone message from Joe and Winnifred Wright in support of the application.

This correspondence will be made a part of the record of Conditional Use No. 1314.

It was decided that all the correspondence received on this application will be reviewed at the December 14, 1999, Council meeting. On November 30, 1999, action on this application was deferred and 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 and to accept additional written public comments. Comments were limited to information currently in the record. The record was left open until the close of business on December 7, 1999.

Corre-
spondence
Relating to
Voting
Eligibility
for
Sewer
Referendums

Mr. Phillips advised Council of a letter he received from Theresa and Robert Maney and Karen and Gene Merritt regarding the creation of the Proposed Oak Orchard Sanitary Sewer District and voting eligibility. The authors of the letter address specifically the voting rights of homeowners in Riverdale/Oak Orchard that are not full time residents of the area.

Mr. Phillips asked Mr. Bayard whether the letter and its content are appropriate to be made a part of the record of the Proposed District. Mr. Bayard advised that the letter should have been made a part of the record at the Public Hearing on Saturday, December 4, 1999; however, he noted that it was appropriate to incorporate the letter into Council's correspondence.

Mr. Bayard advised that voter eligibility is not dictated by County Ordinance; it is dictated by Title 9, Section 6519, of the Delaware Code. This State statute establishes what voter eligibility is for sewer referendums and the County is obligated to follow State law. Mr. Bayard further advised that if the authors of the letter object to what voter eligi-

Corre-
spondence

bility is for sewer referendums, the complaint should be addressed to the General Assembly.

Reassign-
ment of
Remaining
1999
Volume Cap
Allocation

Mr. Stickels reported that a letter has been received from Mr. John Carney, Secretary of Finance, State of Delaware, requesting that any portion of the 1999 Volume Cap assigned to Sussex County which will not be allocated either to a qualified project prior to year-end or identified as eligible for carry-forward be reassigned to the State for reallocation between the Delaware State Housing Authority and/or the Delaware Economic Authority. This request is being made to allow the State to maximize its usage of its 1999 Private Activity Bond Volume Cap. Mr. Stickels recommended that Council authorize the reassignment of its unallocated Private Activity Bond Volume Cap.

M 660 99
Assign
Unallocated
Private
Activity
Bond
Volume
Cap for
1999

A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the Sussex County Council, pursuant to the provisions of 29 Delaware Code, Section 5091(f), hereby assigns to the State of Delaware \$5,945,000 of its unallocated Private Activity Bond Volume Cap for 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 661 99
Authorize
Executive
Session

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to authorize an Executive Session of the Sussex County Council to be held on December 7, 1999, beginning at 11:45 a.m., in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing personnel issues.

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. Y2K Community Outreach Program

Delaware Technical & Community College, Jack F. Owens Campus in Georgetown, will be hosting the Year 2000 Community Outreach Program on Monday, December 13, 1999, from 7:30 to 9:30 p.m. For more information on this event, you may contact Steve Gardner at 302-659-2213, or Joe Wessels at 302-659-2248, or the State of Delaware Year 2000 Website – Calendar of Events for December

Adminis-
trator's
Report
(continued)

Community Outreach Programs at http://www.state.de.us/ois/y2000/mgmt_toc.htm#calendar.

2. Delaware Aviation Hall of Fame

I am pleased to inform the Council that Mr. Frank Calio, Director of Economic Development and Industrial Airpark, has been named as a Trustee of the recently organized Delaware Aviation Hall of Fame. Of the 12-member Board of Trustees, Mr. Calio is the only member from Sussex County to serve.

The Hall of Fame will induct Delawareans who have made outstanding contributions to the advancement of aviation in Delaware. Honorees will be named to a Hall of Fame by the Board of Trustees. Induction will take place at an awards dinner this spring.

3. Carolling on The Circle

In addition to the participants in the Carolling on The Circle, I would like to thank the Carolling on The Circle Committee, consisting of Bob Betts, Robin Griffith, Dale McDowell, Diana Pettyjohn, Kevin Short, Susan Smart, Helen Walls, Ray Webb, Jamie Hall, and Richard King, for their assistance in making the 17th Annual Carolling on The Circle a successful event. This year, 12,864 food items were raised. This food will be distributed among pantries throughout the County.

Participants in this year's program were: Kevin Short, Terry Baker, Josh Clendaniel, Gino Bailey, Billy West, Larry Lynch, Rodger Lewis, Kenny Martin, Sonia Taylor, Cindy Erskine, Shelly Hudson, Ann Maloney, Kevin Brennan, Maria Picazo, Johnny Alvarado, Juan de Leon, Jonathan Garcia, Diana Morales, Maria Morales, Edelvis Ortiz, Francis Ortiz, Noe Ortiz, Andrea Picazo, Peyo Picazo, Edy Yoc, and Levita Yoc.

A special thanks is also extended to the Georgetown Fire Company for allowing us to use their facility and to the Ladies' Auxiliary for serving the cookies and hot chocolate.

Five
Points
North/
Substantial
Completion

Mr. Izzo, County Engineer, discussed granting Substantial Completion for Contract WR III – 3, Five Points North. On November 30, 1999, the Sussex County Council approved extending the contract for 21 calendar days and extended the contract time to December 10, 1999. Mr. Izzo advised that he is requesting permission on this date instead of waiting until the December 14, 1999, Council meeting due to the fact that there are people who wish to start connecting to the system on December 13, 1999.

M 662 99
Grant
Substantial
Completion/
Five
Points
North

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based on the recommendation of the Consulting Engineer, George, Miles & Buhr, LLP, and the Sussex County Engineering Department, that effective December 10, 1999, the Sussex County Council grants Substantial Completion to L. A. Merrell Inc. for Sussex County Project No. 96-03, Contract WR III – 3, Five Points North, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents, contingent upon the performance of a successful inspection scheduled for December 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

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 A PROPOSED 340' HIGH GUY WIRE TELECOMMUNICATIONS TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.35 ACRES, MORE OR LESS (TOWER TO BE SITUATED ON A 10,000 SQUARE FOOT LEASE AREA)" (Conditional Use No. 1324) filed on behalf of American Tower Corp. The Proposed Ordinance will be advertised for Public Hearing.

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 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 28,393 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1325) filed on behalf of Mark Wolfe. The Proposed Ordinance will be advertised for Public Hearing.

Human
Service
Grant
Funding

Mr. Phillips submitted a letter from Norman Anderson requesting funding for a youth facility in the Town of Dagsboro. Mr. Phillips asked that this request be considered for human service grant funding in Fiscal 2001.

Corre-
spondence/
Perdue-
AgriRecycle

Mrs. Purnell advised Council that she faxed a letter to the County in support of the Perdue-AgriRecycle application and that she would like the letter to be made a part of the record. Mrs. Purnell was advised that the letter would be made a part of the record.

Citizens
Concerns/
Voting
Eligibility
for Sewer
Referendums

Mr. Wolfgang von Baumgart, Research Coordinator of the Oak Orchard Citizens Wastewater Commission, addressed Council regarding the correspondence received from Theresa and Robert Maney and Karen and Gene Merritt. Mr. von Baumgart stated that the letter raises some constitutional questions of taxation without representation. Mr. von Baumgart asked the County to advocate a change in State law, on behalf of the County's citizens, relating to the voting rights of homeowners in Riverdale/Oak Orchard that are not full time residents of the area. Council asked that Mr. von Baumgart to study this issue with the Oak Orchard Wastewater Commission and to make a recommendation to Council as to how the County should advocate the change in State law.

M 663 99
Recess

At 10:40 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess and go into Executive Session. Motion Adopted by Voice Vote.

Executive
Session
and
Recess

At 10:45 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers. The purpose of the Executive Session was to discuss personnel issues. The Executive Session concluded at 11:00 a.m. and the Regular Meeting was recessed until 1:30 p.m.

Luncheon

The Sussex County Council and Sussex County employees attended the Mildred King Christmas Luncheon at the Cheer Center in Georgetown.

Reconvene

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

Public
Hearing
(C/Z
No. 1390)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.0 ACRES, MORE OR LESS" (Change of Zone No. 1390) filed on behalf of First State Storage. The report of the Public Hearing held before the Planning and Zoning Commission on November 18, 1999, was read into the record. There were no public comments and the Public Hearing was closed.

M 664 99
Adopt
Ordinance
No. 1353
(C/Z
No. 1390)

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Ordinance No. 1353 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 9.0 ACRES, MORE OR LESS" (Change of Zone No. 1390) filed on behalf of First State Storage.

M 664 99
(continued)

Motion Adopted: 4 Yea, 1 Abstention.

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

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 result in a downzoning, consistent with the purposes and goals of the Comprehensive Land Use Plan, to preserve agricultural lands.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 665 99
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to adjourn at 1:34 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council