

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 10, 2002

**Call to
Order**

The regular meeting of the Sussex County Council was held Tuesday, December 10, 2002, 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
George B. Cole	Member
Dale R. Dukes	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Eugene Bayard	County Attorney

**M 727 02
Approve
Agenda**

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. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

**M 728 02
Approve
Minutes**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of December 3, 2002, as distributed.

Motion Adopted: 5 Yea.

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

**Corre-
spondence**

Mr. Bayard read the following correspondence:

**SCOTT COULBOURN, CITY OF SEAFORD'S DEPARTMENT OF
PARKS AND RECREATION, SEAFORD, DELAWARE.**
RE: Letter in appreciation of grant.

**Pension
Committee
Report**

Mr. Baker reported that the Pension Committee met on December 3, 2002 and discussed the status of the County's Pension Fund, recommended contributions for Fiscal 2003, and recommended reallocation of Wilmington Trust funds. Mr. Baker reviewed the following:

- Actuary's Pension Fund Report
- New Actuary Report for Pensioner Benefits

**Pension
Committee
Report
(continued)**

- Spreadsheets Reviewing Investment Returns
- Recommendation from Wilmington Trust Company
- Spreadsheet Showing Returns by Investment Manager

The January 1, 2002 Actuarial Valuation recommends a pension contribution for 2002 in the amount of \$1,086,389.00, or 8.87 percent of payroll. Last year, the pension contribution was 8.08 percent of payroll. Mr. Baker explained that the reason the recommended contribution has increased is that the return on assets in 2001 was -4.7 percent. Each year, the actuary assumes (on average) that the County's return on assets will be 8 percent. Mr. Baker noted that poor returns in the stock market have affected the County's Pension Fund.

It was noted that without the cost-of-living increases given to pensioners, the County would incur expenses that would be approximately half of what is currently expended. However, it has been the County's policy to grant a cost-of-living raise each year, with a 2 percent limit.

Mr. Baker commented that the plan is slightly under-funded on an actuarial basis, with the report showing a deficit of \$355,043.00 as of January 1, 2002, which is primarily the result of poor returns in the stock market.

Mr. Baker reviewed the December 2, 2002 Retiree Medical Actuarial Report prepared by Aon Consulting. This is the first time the County has had this report prepared; the report estimates the future liability for County pensioner benefits, which is primarily group hospital benefits. The consultants recommended a contribution in the amount of \$1,971,700; \$1,021,000 is for normal costs and \$950,000 is for unfunded liability. The County has funded the plan on a "pay-as-you-go" basis in prior years. Currently, the plan has no assets although the County has budgeted \$500,000 in this year's budget as a start-up fund. The \$1,971,700 was calculated based on a GASB proposed accounting standard, which is currently in draft form. GASB is in the process of developing a new standard for post-retirement benefits other than pensions. This standard may be implemented in Fiscal 2006 – 2008. Aon Consulting calculated the County's liability for pensioner benefits based on the proposed plan. Mr. Baker stated that the County has two choices: (1) start pre-funding this liability now (the County is doing this in the Fiscal 2003 Budget in the amount of \$500,000) or (2) reduce future benefits for pensioners. Mr. Baker noted that, by setting aside some funds this year, the County will reduce its liability in the future.

Mr. Baker reviewed the pension fund performance as of October 31, 2002. As of October 31, 2002, the Standard & Poor stock index was down -21.8 percent. The County's returns have decreased in value approximately -9.63 percent since January 1, 2002, for a total value of \$16,842,648 as of October 31, 2002. This compares to comparable indices of -11.20 percent. The breakdown of the \$16,842,648 in the County's Pension Fund is:

**Pension
Committee
Report
(continued)**

Wilmington Trust in the amount of \$6,964,691; Fidelity Investments in the amount of \$2,382,266; and the State of Delaware Local Government Retirement Investment Pool in the amount of \$7,495,691. Returns for the three investment managers, as of October 31, 2002 are: Wilmington Trust at -12.5 percent; Fidelity Investments at -7.49 percent; and the State of Delaware Local Government Investment Retirement Pool at -10.6 percent.

Mr. Baker stated that the returns for the County have been better than the returns of Standard & Poor's 500, with the County having had 5 years of returns which were greater than 8 percent, and 4 years that were less. The County's average return since 1994 is 6.94 percent. Mr. Baker noted that the County's returns are more conservative compared to the Standard & Poor index because the County has a 40 percent investment in bonds. As of October 31, 2002, the County's returns were -9.63 percent while the comparable indices were -11.2 percent.

Mr. Baker referred to a chart for the County's Deferred Compensation Program showing negative returns for all fifty stock mutual fund companies for the third quarter of 2002. This is the voluntary employee pension program that the County offers through the National Association of Counties.

Mr. Baker discussed Wilmington Trust Company's recommendation regarding asset allocation changes that included the diversification of funds by adding additional funds, with the ultimate goal to increase the County's returns. The current allocation is large cap growth at 22.5 percent, large cap value at 22.50 percent, and small cap core at 15 percent. Wilmington Trust is recommending that the County reduce the large cap growth to 10 percent, add a large cap core of 10 percent, reduce the federated stock fund (value fund) from 22.5 percent to 10 percent, add a mid cap core of 7.5 percent, reduce the Wilmington Trust's small cap fund from 15 percent to 7.5 percent, add an international fund at 10 percent, and also add a Fidelity real estate investment fund at 5 percent. Wilmington Trust also recommended adding a bond fund at 10 percent; however, the Committee is recommending a bond fund at 5 percent. The County's stock allocation would remain at 60 percent, but the breakdown would change. Mr. Baker advised that the Pension Committee's recommendation is to approve Wilmington Trust Company's recommendation with the exception previously noted regarding the bond fund.

Mr. Dukes expressed concern about Wilmington Trust Company's performance over the entire year; that they are controlling \$6.9 million of the County's money; that the County needs to watch them very closely; and that the County needs to review their performance following the next quarter.

Mr. Dukes commented, and Mr. Baker agreed, that one option for the County is to find a replacement investment manager.

**Pension
Committee
Report
(continued)**

Mr. Phillips noted that the County may, in the future, have to consider tempering the funding for pensioner benefits.

Mr. Baker noted that another Pension Committee meeting could be scheduled in several months for the purpose of reviewing the returns of all three investment managers and reporting the results to Council.

**M 729 02
Change
Wilmington
Trust
Investment
Allocation**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Council approves the recommendation of the Sussex County Pension Committee to change the Wilmington Trust investment allocation to include Large Cap Growth at 10 percent; Large Cap Core at 10 percent; Large Cap Value at 10 percent, Mid Cap Core at 7.5 percent; Small Cap Core at 7.5 percent, International at 10 percent; Real Estate at 5 percent; Individual U. S. Treasury and Agency Issues at 35 percent; and Short/Intermediate Bond Fund at 5 percent.

Motion Adopted: 4 Yea, 1 Abstention.

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

**Pension
Committee
Report
(continued)**

Mr. Baker reported that the Pension Committee considered the Fiscal 2003 Pension Contribution. The Committee recommended that the County invest \$1 million with Fidelity Funds and \$283,288 with the State of Delaware Local Government Retirement Investment Pool. Mr. Baker noted that this decision was primarily based on the fact that Fidelity's returns have been higher over the last five years and based on the fact that the State of Delaware Fund is in the top 10 percent of Public Pension Funds for the past five years.

**M 730 02
Approve
Fiscal
2003
Contri-
bution**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, that the Sussex County Council approves the Sussex County Pension Committee recommendation to invest the Fiscal 2003 Pension Contribution as follows: \$1,000,000 Fidelity Funds and \$283,288 State of Delaware Local Government Retirement Investment Pool. The Fidelity Investments Contribution amount will be allocated as follows: Blue Chip Growth at 22.5 percent, Equity Income at 22.5 percent, Low Priced Stock at 15 percent; and Short/Intermediate Bond Fund at 40 percent. The Finance Director will report to the County Council on recommended reallocations after consulting with Fidelity Investments.

Motion Adopted: 5 Yea.

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

**Pension
Committee
Report
(continued)**

Mr. Baker reported that the Pension Committee recommended that the County invest the initial contribution of \$500,000 (from General Fund) to start a pensioner benefit fund with the State of Delaware Local Government Retirement Investment Pool. Due to the relatively small size of the investment, it was decided, at this time, to recommend the State of Delaware Pension Fund option. In the future, investment decisions regarding this fund will be handled in a similar manner to that of the County's pension fund.

Mr. Phillips expressed concern over taking the \$500,000 out of the General Fund and placing it in an investment situation where the County may lose money.

**M 731 02
Approve
Fiscal
2003
Pension
Contri-
bution
for
Pension
Benefits**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Council approves the Sussex County Pension Committee recommendations that the Fiscal 2003 Pension Contribution for Pension Benefits, totaling \$500,000, be invested in a separate account with the State of Delaware Local Government Retirement Investment Pool.

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

**Wastewater
Facilities**

Mr. Green, Director of Utility Construction, discussed wastewater facilities constructed in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

**M 732 02
Grant
Beneficial
Acceptance/
Harbour
Towne
Apartments**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, 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 grant Beneficial Acceptance for the wastewater facilities constructed in Harbour Towne Apartments, 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. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

**Long Neck
Sanitary
Sewer
District
Expansion
Request**

Mr. Archut, Assistant County Engineer, presented an annexation request for the Long Neck Sanitary Sewer District to include the Route 24 Expansion. Mr. Archut advised that the Back Bay Shopping Center property, including eleven individually owned parcels, would be included in the proposed expansion. Mr. Archut noted that all of the eleven property owners have expressed an interest in being included in the expansion. Mr. Archut also noted that the developer has agreed to pay the system connection charges and the plumber's fees for hook-up to the system for

**Long Neck
Sanitary
Sewer
District
(continued)**

each of the eleven property owners included in the expansion request. In addition, the developer will have to put in pipelines to meeting the planning for the area including a 21-inch sewer line to tie into the Bayshore Development. A conceptual plan is being prepared by the developer to determine if their plan meets County requirements.

**M 733 02
Authorize
Engineering
Department
to Prepare
and Post
Notices/
Long Neck
SSD
Expansion**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Long Neck Sanitary Sewer District Boundary to include the Route 24 Expansion, as presented on December 10, 2002.

Motion Adopted: 5 Yea.

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

**2002
Proposed
Land Use
Plan**

Council discussed the 2002 Proposed Land Use Plan. Mr. Stickels noted that at the conclusion of the December 3, 2002 Public Hearing, the County Council directed staff to review the comments presented and to determine which recommended changes could be accepted and which recommended changes would be substantive changes and require an additional meeting with the Livable Delaware Council and additional Public Hearings.

It was noted that, at the December 3, 2002 Public Hearing, public comments were received from seven individuals and two letters of correspondence were received. It was determined that three of the recommendations received could be included in the Plan, if approved by Council, and that the remaining recommendations would be substantive and that they could better be addressed when the supporting ordinances are adopted.

Mr. Stickels informed Council that when the supporting ordinances are adopted, and there is a difference between the ordinance and the contents of the Land Use Plan, a Public Hearing could be held on amending the Land Use Plan. (The Office of State Planning would also have to agree to any amendment to the Land Use Plan.)

It was noted that, in reviewing the comments/recommendations, several things were considered. First, many comments were not recommended for inclusion due either to their lateness in the process (and therefore their significant impact on the process) or the fact that they were repetitive comments which had been considered previously and then not included, for whatever reason. Second, while upon adoption the Plan "shall have the force of law", its impact on development is through conformity to the Land Use Map and any land development regulations adopted by the County to implement the Plan. Therefore, because the Plan is a policy document, it does not need to read like an ordinance. Lastly, proposals not included in this Plan may be considered either at a later date as a plan amendment or through a more appropriate mechanism, such as a new ordinance or an amendment to an existing ordinance.

**2002
Proposed
Land Use
Plan
(continued)**

Mr. Stickels reviewed the recommended changes to the Plan document:

Harry J. Haon, Association of Coastal Towns

- Delete “recommended” from the sentence thereby changing the sentence from a guideline to a standard. The sentence would be changed from “The recommended minimum requirements are as follows:” to “The minimum requirements are as follows:”. (left column, line 37, page 65)

Mr. Stickels reported that Ms. Ann Marie Townshend, Office of State Planning Coordination, suggested that the sentence be changed to read, “The minimum requirements to be included in the new ordinance will be as follows:”.

**M 734 02
Amend-
ment to
Plan
(Denied)**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to strike the current sentence on page 65 (“The recommended minimum requirements are as follows:”) and insert in lieu thereof the following: “The minimum requirements to be included in the new ordinance will be as follows:”.

Motion Denied: 4 Nay, 1 Yea.

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

**2002
Land Use
Plan
(continued)**

Richard G. Collins, Positive Growth Alliance

- Eliminate the two words “walking distance”. (left column, line 33, page 16)

Mr. Stickels noted that the word “distance” needs to remain in the sentence for it to have meaning.

**M 735 02
Approve
Amend-
ment to
Plan**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to strike the word “walking” from the 33rd line, left column, page 16. The amended sentence will read, “The Rural Community District boundary placement should be guided by a consideration of a convenient distance to the community center.”

Motion Adopted: 5 Yea.

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

**2002
Land Use
Plan
(continued)**

Richard G. Collins, Positive Growth Alliance

- Eliminate the sentence that says “Entrances for commercial uses should

Plan (continued) generally be restricted to one per property...” (right column, line 20, page 22)

M 736 02 A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to delete the sentence in the right column, line 20, page 22 that says “Entrances for commercial uses should generally be restricted to one per property...”
Approve
Amend-
ment to

Plan Motion Adopted: 3 Yea, 2 Nay.

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

2002 Mr. Stickels reported that on Friday, December 6, 2002 the Office of State
Land Use Planning Coordination concurred with the recommended revisions, with the
Plan exception of Mr. Haon’s comments; however, as noted previously, the
(continued) Office of State Planning Coordination offered alternative wording.

It was noted that the remaining comments or suggested changes are either substantive or require no changes to the documents. Substantive changes in the Plan can be addressed at the time supporting ordinances are adopted.

M 737 02 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt
Adopt Ordinance No. 1574 entitled “AN ORDINANCE ADOPTING THE 2002
Ordinance UPDATE OF THE COMPREHENSIVE PLAN FOR SUSSEX COUNTY
No. 1574 AND REPEALING THE 1997 COMPREHENSIVE PLAN” (dated October
Adopting 29, 2002) with the recommendations of the Planning and Zoning
2002 Commission, dated November 21, 2002 to include typos, errors,
Land Use clarifications, text editions, deletions and changes dated October 29, 2002;
Plan text additions recommended by the Livable Delaware Advisory Committee dated November 18, 2002; and clarifications approved by the Sussex County Council on December 10, 2002; and be it further moved that the Plan shall be effective on all zoning applications as of January 1, 2003.

Motion Adopted: 3 Yea, 2 Nay.

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

Proposed Mr. Phillips introduced the Proposed Ordinance entitled “AN
Ordinance ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
 AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LIGHT
 FABRICATION OF PARTS AND FRAMES FOR RACE CARS TO BE
 LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.06
 ACRES, MORE OR LESS” (Conditional Use No. 1486) filed on behalf of
 Alton D. White. 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 MINI-STORAGE FACILITY WITH SPACE FOR BOAT AND RV STORAGE, WORKSHOPS, AND AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.55 ACRES, MORE OR LESS" (Conditional Use No. 1487) filed on behalf of Ronald E. Gray. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (171 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 29.81 ACRES, MORE OR LESS" (Conditional Use No. 1488) filed on behalf of Vaughn Melson and Alfred Melson. The Proposed Ordinance will be advertised for Public Hearing.

**Proposed
Ordinance**

Mr. Phillips 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.77 ACRES, MORE OR LESS" (Change of Zone No. 1495) filed on behalf of Ronald E. Gray. The Proposed Ordinance will be advertised for Public Hearing.

**M 738 02
Recess**

At 11:45 a.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 1:30 p.m.

**Public
Hearing
(C/U
No. 1468)**

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 PLAYING AREA FOR PAINTBALL GAMES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.26 ACRES, MORE OR LESS" (Conditional Use No. 1468) filed on behalf of Lane N. Brasure.

The Planning and Zoning Commission held a Public Hearing on this application on November 14, 2002, at which time they recommended approval, with conditions. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Brasure was present on behalf of his application and stated that paintball games are played on Sundays from noon to dusk; that sometimes on Saturdays, private parties and tournaments are held; that tournaments

**Public
Hearing
(C/U
No. 1468)**

usually begin at 8:30 a.m.; and that occasionally paintball games are played during weekdays when school is out.

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

**M 739 02
Adopt
Ordinance
No. 1575**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Ordinance No. 1575 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLAYING AREA FOR PAINTBALL GAMES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.26 ACRES, MORE OR LESS" (Conditional Use No. 1468) filed on behalf of Lane N. Brasure, with the following conditions:

1. Activities shall be limited to eight acres of the property.
2. One accessory building, not to exceed 12' x 12', shall be permitted.
3. Hours of operation shall be 9:00 a.m. to dusk.
4. Adequate parking shall be provided.
5. One on-site portable toilet shall be permitted.
6. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Nay.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Nay;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, 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 serve the recreational convenience of children and families in 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. 1469)**

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 AN EMBROIDERY BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.75 ACRES, MORE OR

**Public
Hearing
(C/U
No. 1469)
(continued)**

LESS” (Conditional Use No. 1469) filed on behalf of Gregory S. Heishman.

The Planning and Zoning Commission held a Public Hearing on this application on November 14, 2002, at which time they deferred action. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

The Council found that Greg Heishman was present on behalf of his application and stated that he and his family have been operating the embroidery business in their home under an approved home occupation business; that his daughter has moved out and will not be working for the business; and that they need to hire 2 unrelated employees to operate the business.

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

**M 740 02
Defer
Action
on C/U
No. 1469**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to defer action on Conditional Use No. 1469 filed on behalf of Gregory S. Heishman.

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1482)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 44.83 ACRES, MORE OR LESS” (Change of Zone No. 1482) filed on behalf of Donald Derrickson.

The Planning and Zoning Commission held a Public Hearing on this application on November 14, 2002, at which time they deferred action and left the record open for thirty (30) days after receipt of comments from DelDOT in reference to the Traffic Impact Study. The record of the Planning and Zoning Commission was incorporated into the record of this Public Hearing.

Mr. Abbott, Assistant Director of Planning & Zoning, reported that certified letters and copies of the site plan were sent to the City of Lewes and the City of Rehoboth. To date, no response has been received.

It was also noted that no comments were received from the school districts or fire companies.

**Public
Hearing
(C/Z
No. 1482)
(continued)**

The Council found that James Fuqua, Attorney, and Donald Derrickson were present on behalf of the application and stated that the application is for a Medium Density Residential – Residential Planned Community with 147 multi-family units (146 residential units and a pro shop) and a 9 hole course; that the applicant owns the property and currently operates the 9 hole golf course and a hotel on an adjacent parcel; that the proposed development will require a revised layout for the golf course; and that there will be a deed restriction that states that the golf course area will remain as open space even if the golf course is not in operation anymore; that DelDOT has approved the existing entrance; that concern was expressed about a blind entrance because of trees and shrubbery along the road; that the shrubs are in the DelDOT right-of-way area; that in this area is where the turn lane will be placed; that the blindness of that entrance will be corrected by the turn lane; that the project meets the requirements of an RPC; that DelDOT is still reviewing the Traffic Impact Study; that the Planning and Zoning Commission has stated that they will not be making a recommendation until the Traffic Impact Study has been received and reviewed, that the developer will make any improvements that DelDOT requires; that the 147 units will not make a tremendous impact in an area that is in a Development District; that Tidewater Utilities will provide central water to the site; and that Tidewater Utilities is regulated by the Delaware Public Service Commission, by the Delaware Department of Natural Resources and Environmental Control, the Delaware Division of Public Health, and the State Fire Marshal's Office. In response to the Citizen's Coalition questioning whether Tidewater Utilities has the ability to provide water, Mr. Fuqua submitted into the record a letter from Tidewater Utilities, summarizing all of the improvements done in the past two years in the Rehoboth Public Water District and the additional planned improvements that will be done. Mr. Fuqua submitted Proposed Conditions and Proposed Findings of Fact.

Public comments were heard.

Mr. Brice Lingo, an area Realtor and Appraiser, spoke in support of the project and stated that he assisted in the feasibility of the project; that the proposed use is the best use of the property; and that the project will be an asset to Sussex County.

Public comments were heard in opposition to the project. Concern was expressed about traffic on Postal Lane and Plantation Road and water quality and quantity.

Mr. Cole suggested that the Delaware Department of Transportation be advised of the traffic concerns which have been expressed.

Mr. Cole also suggested that Tidewater Utilities' comments be forwarded to the Department of Natural Resources and Environmental Control and to the Delaware Department of Public Health.

**Public
Hearing
(C/Z
No. 1482)
(continued)**

Mr. Bayard read the following correspondence:

Barbara and Robert McGowan, Lewes, Delaware.

Re: Letter expressing concern about Change of Zone No. 1482 and requesting Council to deny the zoning change.

Alyce Parry, Lewes, Delaware.

Re: Note stating objection to Change of Zone No. 1482.

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

**M 741 02
Defer
Action
(C/Z
No. 1482)**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Change of Zone No. 1482 filed on behalf of Donald Derrickson and to leave the record open for a period of thirty days for written comments from the Delaware Department of Transportation in reference to the Traffic Impact Study and for written comments from the Delaware Department of Natural Resources and Environmental Control and the Delaware Division of Public Health in reference to water supply and water quality issues.

Motion Adopted: 5 Yea.

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

**M 742 02
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to adjourn at 2:37 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



**Robin A. Griffith
Clerk of the Council**