

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 14, 1999

Call to Order            The regular meeting of the Sussex County Council was held Tuesday, December 14, 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 666 99            A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to amend Amend and Approve Agenda            the Agenda by deleting the following:  
"Rodney Marvel, Maintenance Division Manager"

1. Generator Installation for Station Nos. 40 and 43  
Sussex County Contract No. 99-04

A. Change Order";

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 667 99            A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve Approve Minutes            the minutes of the previous meeting, dated December 7, 1999.

Motion Adopted: 5 Yea.

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

Carols Children from Small Wonder Ones Day Care entertained Council with Christmas carols.

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

ANN GORIN, SUSSEX COUNTY COORDINATOR, READ-ALOUD DELAWARE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

General Fund Debt Reduction Program Mr. Stickles referred to the County's General Fund Reduction Program and announced that the County is in line with projections made by the Budget Committee. On May 18, 1999, the Budget Committee made a recommendation to the Council to eliminate the County's General Fund Debt within the next three to four years. As of July 1, 1999, the County's General Fund Debt totaled \$8.3 Million. This debt was expended for projects such as Industrial Park improvements, landfills, Airport and Emergency Operations Center improvements, airport terminal building, airport hangars, addition and improvements to the Courthouse, computer equipment, County Administration Building, Bayview Park Road Project, and the Emergency Operations Center Mobile 911 Center. Mr. Stickles reported that, as of this date, the County has reduced its outstanding debt to \$7.9 Million. In addition, on January 25, 1999, Farmers Home Administration will be invited to attend the Council meeting to receive a check in the amount of \$2.9 Million for an early repayment of the loan for the County Administration Building; this early pay-off will result in a savings of approximately \$3.5 Million over the loan term. As of July 1, 2000, it is expected that the County's General Fund debt will be \$3,494,365; this amount is expected to be paid off by the year 2002. Mr. Stickles noted that the sewer districts will still have outstanding debt; however, the revenue generated by the districts supports this debt.

Regional Planning Committee Meetings Mr. Stickles distributed a schedule for the Sussex County Regional Planning Committee meetings, as follows:

Region No. 1

Greenwood, Bridgeville, Seaford, Blades, Bethel, Laurel, Delmar

January 18, 2000

Seaford City Hall

7:00 p.m.

Region No. 2

Milford, Ellendale, Georgetown, Milton, Slaughter Beach, Millsboro

January 19, 2000

Sussex County Administrative Office Building

7:00 p.m.

Regional  
Planning  
Committee  
Meetings  
(continued)

Region No. 3

Dagsboro, Frankford, Selbyville, Fenwick, South Bethany, Bethany,  
Ocean View, Millville  
January 13, 2000  
Fenwick Island Town Hall  
9:00 a.m.

Region No. 4

Lewes, Rehoboth, Dewey, Henlopen Acres  
January 20, 2000  
7:00 p.m.  
Rehoboth Beach City Hall

The Regional Planning Committees will meet to look at the Cabinet Committee's action on land use planning. Public comment will be permitted following the workshop portion of the regional meetings. The Sussex County Council and the Sussex County Planning and Zoning Commission will consider all input received.

Land Use  
Planning/  
Cabinet  
Committee

Mr. Stickels updated Council on the Cabinet Committee's action on land use planning. Mr. Stickels displayed the Cabinet Committee's newly proposed map that extends the environmental investment area into the Inland Bay area, which is supported by the West Rehoboth Sewer District.

Mr. Stickels and Mr. Jones met with the Governor's Cabinet Committee last week and recommended that the following two amendments be considered:

Amendment No. 1

The purpose of this report to establish a guiding document to assist local government with land use decisions. The final decision on land use activities is the responsibility of the local elected official as stated in Delaware Code, Title 9, Chapters 68 and 69.

Amendment No. 2

State funding for projects located outside of the State strategy maps may be made available if the State and the local government are in agreement that State funding is beneficial for the general welfare of the public.

Mr. Hugg has advised that both of these amendments will be included in the draft.

Land Use  
Planning  
(continued)

Mr. Stickels advised that the Governor's Cabinet Committee on State Planning has postponed the vote on their Land Use Plan until a meeting scheduled for December 23, 1999, at 9:00 a.m., in Wilmington, Delaware. It is the State's intent to take action prior to year-end.

House  
Resolution  
No. 32

Mr. Stickels distributed for Council's review the Draft Recommendations for On-site Wastewater Systems Issues by House Resolution 32 Committee. The Committee is meeting regularly and discussing major changes, i.e. (1) eliminating the permitted use of holding tanks in the Inland Bays watershed area, (2) establishing a policy between DNREC and the County requiring DNREC approval to connect a home to any large on-site wastewater disposal system (OSWDS) prior to issuance of a building permit in a subdivision served by a large OSWDS, and (3) establishing a requirement that every septic system in the County be inspected every three years.

Mr. Phillips spoke in opposition to the method (raising fee structure) by which the Committee proposes to use to discourage the use of holding tanks.

Mr. Stickels advised that DNREC is required to follow the public hearing process prior to making any regulation revisions.

Lease  
Assignment/  
Industrial  
Airpark

Mr. Stickels and Mr. Calio, Director of Economic Development and Industrial Airpark, discussed the assignment of an Industrial Park lease from Thompson and Thompson (formerly Edgehill Drugs, Inc. Warehouse/Corporate Office) to Harvey Patrick and Taylorcraft 2000, LLC. Taylorcraft 2000, LLC, a manufacturer of light aircraft since 1930, wishes to locate their manufacturing facility at the Sussex County Industrial Airpark. Taylorcraft is also planning to construct a new 100' x 150' aircraft hangar to be located next to Georgetown Air Services. Future plans of Taylorcraft include a flight school and charter service. The company plans to hire 150 employees over the next three years.

Council was advised that this transaction is contingent upon Mr. Patrick obtaining a Delaware Industrial Revenue Bond (IRB ) with settlement taking place on or before June 1, 2000.

M 668 99  
Authorize  
Lease  
Assignment/  
Industrial  
Airpark

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to authorize the assignment of a lease for Parcels 24 and 25 at the Sussex County Industrial Airpark from Thompson and Thompson (Edgehill Drugs, Inc.) to Taylorcraft 2000.

Motion Adopted: 5 Yea.

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

Administrator's Report

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

1. Sussex County Weather Conditions

Sussex County residents can now obtain weather conditions being experienced at the Sussex County Airport from their cable TV provider. The weather channel based in Atlanta, Georgia, provides local weather conditions from the Sussex County Airport in Georgetown every eight minutes. Cable subscribers who do not have the weather channel should contact their local cable provider. In Sussex County, Comcast offers this service on Channel 29.

2. Community Development Advisory Committee Meeting

There will be an Advisory Committee meeting on Tuesday, January 4, 2000, at 10:00 a.m. at the Community Development Office, Administrative Office Building, West Complex, in Georgetown. The Committee will be reviewing the Community Development Block Grant application for FY 2000. The County Council will hold a Public Hearing regarding the application on Tuesday, December 21, 1999, at 11:00 a.m. in Council Chambers. The public is encouraged to attend these meetings.

Industrial Park Lease

Mr. Calio, Director of Economic Development and Industrial Airpark, and Mr. Martin Peter, Finance Director of MVP, Inc., discussed the company's desire to lease Lot 14 on Cedar Avenue in the Sussex County Industrial Airpark. MVP, Inc. is a mechanical contractor specializing in valve repair, pump repair, general maintenance services and metal fabrication. The lease would be for a term of thirty years with no extension at a cost of \$400.00 per acre to be increased annually in accordance with the County's current land rent schedule. MVP, Inc. plans to begin construction in the year 2000 and has plans to employ 10 to 25 people.

M 669 99  
Authorize Industrial Park Lease

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council authorizes a thirty (30) year lease with MVP, Inc. for Lot No. 14 on Cedar Avenue in the Sussex County Industrial Airpark, with rent based on the County's current land rent schedule and that the President of the Sussex County Council is authorized to execute the lease.

Motion Adopted: 5 Yea.

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

Update/  
Perdue-  
AgriRecycle,  
L.L.C.

Mr. Lank provided an update on the application of Perdue-AgriRecycle, L.L.C. (Conditional Use No. 1314).

On November 30, 1999, the Sussex County Council held a public hearing on this application. At that time, action was deferred and the Public Hearing was closed; however, the record was left 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.

The Planning and Zoning Commission held a public hearing on this application on November 4, 1999. The Commission has recommended that this application be approved with fourteen (14) stipulations.

Mr. Lank reviewed letters and petitions that were received following the public hearing and prior to the deadline established by Council on November 30, 1999, as follows:

Michael Malkewicz, Attorney for the Opposition

John Sergovic, Attorney for the Applicant

Nicholas Pasquale, Secretary of the Department of Natural Resources and Environmental Control

In Support of the Application

Fred Cline

Chesapeake Bay Foundation

Center for the Inland Bays

In Opposition to the Application

Cherie Ann Clarke

John C. Baumgarten

Russell Ebron

Barbara Constantine

Mr. and Mrs. John Chadwick

Wolfgang von Baumgart

Update  
(continued)

Mr. and Mrs. Lee Simmons

Jerry Taylor

Sharon Tulley

George M. Anderson

Kenny and Karen Huffman

John and Maryann Ford

Mr. Bayard announced that the public hearing record is closed.

Mr. Bayard addressed the question asked by Mr. Cole as to whether or not this application can proceed as a conditional use as opposed to an application for change of zone. Mr. Bayard stated that, as a result of his research, he is satisfied that it can proceed as a conditional use.

Mr. Bayard distributed a decision handed down by Vice Chancellor Steele involving an application for a conditional use in Sussex County. In his decision, he observed that “conditional uses are far more limiting in their grant of authority to expand property use within a given district and can be more specifically and flexibly tailored to meet the ever changing needs of the community; perhaps most fundamentally the Council’s grant by ordinance comes with specific limiting conditions; second, rezoning of property allows any of the uses specifically permitted within that zoning district; it must be remembered that land use and regulation is not an exact science, the innumerable factors involved in the interplay of those factors does not allow for a rigid and static approach to zoning, as such it cannot be said that employment of the conditional use clause as the means to approve a proposed use more particularly described in another of the use districts is per se reasonable or arbitrary”. Mr. Bayard summed up these comments by saying that the conditional use is an appropriate method to address land use and particularly this property. He further stated that this does not in any way address the merits of the application; it addresses the manner in which the application was made.

Conditional Use No. 1314 will be placed on the Sussex County Council Agenda on December 21, 1999, for a vote.

Proposed  
Oak  
Orchard  
SSD/  
Referendum  
Results

Mr. Archut, Assistant County Engineer, reported on the referendum results for the Proposed Oak Orchard Sanitary Sewer District. The referendum was held on Saturday, December 11, 1999, at the fire department in Oak Orchard. Voting machines were used from the Department of Elections; they set them up and provided instructions on how to operate them. The cumulative counters and specific results were

Referendum  
Results  
(continued)

verified with witnesses, both before and after the referendum. Each machine provided a tape showing the results. These tapes are on record in the Sussex County Engineering Department. The Department also has on record the absentee ballots that were opened and counted in front of witnesses at the close of the election. Standard voting procedures were followed; each person was asked questions to determine their eligibility to vote; each person was verified as to identity with appropriate identification; forms were completed and filed to eliminate the possibility of someone voting twice; and cards were prepared for property owners to eliminate the possibility of two votes per property.

Three hundred and fifty nine (359) votes were cast at the referendum; 167 "For" and 192 "Against". In addition, an absentee ballot process was followed; 80 absentee ballots were received by the deadline (12:00 noon on Friday, December 10, 1999); of those 80 absentee ballots, 62 were determined to be valid and 18 invalid; of the 62 valid absentee ballots, 44 voted "For" and 18 voted "Against". Final results of the referendum for establishing the Oak Orchard Sanitary Sewer District is 211 "For" and 210 "Against".

Mr. Archut commented on the closeness of the vote and how important grants are to a project. The major concern that people have when they vote at these referendums is the cost. Mr. Stickels commented that the County feels that this project will qualify for grants and that the County is committed to looking for ways to lower costs.

Mr. Stickels verified with Mr. Archut that (1) a non-partisan persons served as a witness at the referendum, (2) absentee ballots were counted and verified more than once by different people, (3) the machine counts were verified more than once, (4) the County will receive a letter from the Department of Elections that the machines were working properly, and (5) there is no way that a person could vote more than once.

Mr. Archut advised that there will be one final verification; the number of people who signed in will be counted and the number of people who voted will be counted. Mr. Phillips will be in attendance during this final verification.

Mr. Jack Hammond, a resident in Riverdale, addressed Council and spoke in favor of the proposed district. Mr. Hammond encouraged the County to be cautious as this project progresses - to listen to those people who are going to be directly affected by the proposed district and not those who just wish to speak to the issue and who will not be affected by it. Mr. Hammond also stated that a citizens group will be established to seek financial assistance for those persons who cannot afford the costs associated with connecting to the sewer district.

South  
Bethany  
SSD/  
Emergency  
Sewer  
Repair

Mr. Izzo, County Engineer, advised Council of an emergency sanitary sewer repair in the South Bethany Sanitary Sewer District. On approximately December 3, 1999, a housing contractor starting construction on a house in the Cat Hill Subdivision drove a piling through one of the County's existing sewer lines. This resulted in the sewage backing up into the sewer lines and eventually a manhole overflowed.

Mr. Izzo reported that the County has an easement on the property and that the title search indicated this easement; however, the easement was not indicated on the placement survey. Another contributing factor to this situation is the fact that the housing contractor failed to contact Miss Utility.

Mr. Izzo reported that because of the urgent situation, he had to hire a contractor to make an immediate repair. This is in violation of the County's normal procedure where contractors are hired through a bidding process; however, there is a provision in State law, which permits immediate action in the event that the health and welfare of the public are at risk. In addition, Mr. Stickels advised that he made three Councilmen aware of the situation.

Mr. Izzo informed Council that the landowner will be responsible for all costs associated with the repair work.

M 670 99  
Authorize  
Emergency  
Sewer  
Repair/  
South  
Bethany  
SSD

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the declaration of the County Administrator, that extraordinary conditions exist which require immediate action to protect health and property, that the Engineering Department be excepted from the required use of a competitively bid contract and is hereby authorized to hire Teal Construction, Inc. of Dover, Delaware, to repair a sewer line in the South Bethany Sanitary Sewer District, as allowed by Title 29, Section 6907, Paragraph A, of the Delaware Code.

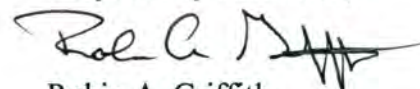
Motion Adopted: 4 Yea, 1 Abstention.

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

M 671 99  
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to adjourn.  
Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council