

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 15, 1998

Executive Session An Executive Session of the Sussex County Council was held on Tuesday, December 15, 1998, at 9:00 a.m. in the Caucus Room of the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, for the purpose of discussing personnel matters.

Call to Order The regular meeting of the Sussex County Council was held Tuesday, December 15, 1998, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
George J. Collins	Member
Lynn J. Rogers	Member

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

M 570 98 Amend and Approve Agenda A Motion was made by Mr. Jones, seconded by Mr. Collins, to amend the Agenda, as follows:

Delete agenda item entitled "E911 CAD Project Consultant";

Substitute name of "Tom Baker" for "Robert C. Green";

Amend agenda item entitled "Villages of Old Landing, Phase III" to read "Villages of Old Landing, Phase II";

and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 571 98 Approve Minutes A Motion was made by Mr. Jones, seconded by Mr. Collins, to approve the minutes of the previous meeting, dated December 8, 1998.

Motion Adopted: 5 Yea.

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

Corre-  
spondence

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

U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA, PENNSYLVANIA.  
RE: Public Notice to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for Little Assawoman Bay.

GERIATRIC SERVICES OF DELAWARE, INC., GEORGETOWN, DELAWARE.  
RE: Invitation to Christmas Open House.

GEORGE KRUPANSKI, EXECUTIVE DIRECTOR, BOYS & GIRLS CLUB OF DELAWARE, WILMINGTON, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

SUSSEX FAMILY YMCA, BOARD OF DIRECTORS, REHOBOTH BEACH, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

HARVEY KENTON, JR., MARVEL AGENCY, MILFORD, DELAWARE.  
RE: Letter commending Mr. Stickels and staff on the presentation given at the business luncheon on December 11, 1998.

MINNIE SMITH, PRESIDENT, WEST SIDE NEW BEGINNINGS, INC., REHOBOTH, DELAWARE.  
RE: Letter expressing appreciation of the County's clean-up efforts in West Rehoboth.

Property  
Assess-  
ment  
Zoning  
Program

Mr. Stickels, County Administrator, discussed the continuation of the Property Assessment Zoning Program. This Program provides for the waiving of the filing fee for rezoning applications for any property owner wishing to have their property rezoned to AR-1. Any property that is downzoned will also have their property assessment changed to reflect that zoning category. Mr. Stickels recommended that this Program be continued through Calendar Year 1999.

M 572 98  
Authorize  
Waiving  
Fees/  
Down-  
zoning

A Motion was made by Mr. Collins, seconded by Rogers, that the Sussex County Council authorizes the waiving of fees on change of zone applications for downzoning through Calendar Year 1999.

Motion Adopted: 5 Yea.

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

Advisory  
Committee

Mr. Stickels, County Administration, discussed recommendations of the Comprehensive Plan Advisory Committee on two Proposed Ordinances relating to historic preservation entitled:

Comprehensive  
Plan  
Advisory  
Committee  
Recommendations  
(con't)

"AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO INCLUDE A PROVISION REQUIRING NOTIFICATION OF THE SUSSEX COUNTY HISTORICAL PRESERVATION PLANNER UPON THE FILING OF AN APPLICATION FOR AN AMENDMENT TO THE ZONING ORDINANCE OR A CHANGE IN THE CLASSIFICATION OF A DISTRICT OR A PORTION THEREOF, OR AN APPLICATION FOR A CONDITIONAL USE PERMIT"; and

"AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY, TO INCLUDE A PROVISION REQUIRING CONSULTATION WITH THE SUSSEX COUNTY HISTORICAL PRESERVATION PLANNER PRIOR TO THE SUBMISSION OF A SUBDIVISION PLAT".

Mr. Stickels advised that the County currently follows the procedures outlined in the Proposed Ordinances by way of policy. It is the recommendation of the Comprehensive Plan Advisory Committee that the Proposed Ordinances be rejected and that the County continue to follow the procedures by way of policy. It was the consensus of Council that the matter be taken under advisement.

Administrator's  
Report

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

1. County Computer Accessibility Hours

The County computer used for tax assessment, Register of Wills, and Planning and Zoning inquiries will be available seven days a week from 6:00 a.m. to 11:30 p.m. each day, with the exception of the first Friday of each month. The first Friday of each month, the staff does a save system backup, and the computer will not be available during the hours of 4:30 p.m. to 1:00 a.m. Any information that is obtained over the weekend that is needed in printed form may be picked up at the Data Processing Department on Monday morning.

2. Proposed Ellendale Sanitary Sewer District

The Sussex County Engineering Department will conduct a public hearing on Tuesday, December 15, 1998, at 6:30 p.m. at the Ellendale Fire Hall for the proposed Ellendale Sanitary Sewer District. The purpose of the hearing will be to discuss the proposed boundaries of the district and to provide a general description of the project. Representatives of the State of Delaware Department of Natural Resources and Environmental Control and the Division of Public Health are also expected to be present. An opportunity will be given for questions and comments. All interested persons, officials, residents, voters, taxpayers, property owners, or other persons or corporations in any way affected by the establishment of this district or wishing to be included in this district are encouraged to attend and offer comments.

Conectiv  
Communi-  
cations/

Mr. David Baker, Finance Director, reviewed the terms of a Memorandum of Understanding between Conectiv Communications, Inc. and Sussex County for the collection of the surcharge MOU associated with the 911 Emergency Reporting System Fund. This Fund provides a source of funds to reimburse County and local governments in Delaware for costs associated with 911 Enhanced Emergency Reporting Systems. The surcharge collected is fifty cents per month on all subscribers per subscription to residential local telephone exchange service.

M 573 98  
Approve  
MOU/  
Conectiv  
Communi-  
cations

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Council approves a Memorandum of Understanding with Conectiv Communications, Inc. to outline terms of collection for the County's fifty cent 911 fee.

Motion Adopted: 5 Yea.

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

Villages  
of Old  
Landing

Mr. Tom Baker, Project Engineer, updated the Council on the construction of wastewater facilities in the Villages of Old Landing, Phase II, located in the West Rehoboth Sanitary Sewer District.

M 574 98  
Grant  
Condi-  
tional  
Accep-  
tance/  
Villages  
of Old  
Landing

A Motion was made by Mr. Cole, seconded by Mr. Collins, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, that the Sussex County Council grant Conditional Acceptance for the wastewater facilities constructed in the Villages of Old Landing, Phase II, located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Update/  
C/U  
No. 1357

Mr. Lank, Director of Planning and Zoning, provided an update on Change of Zone No. 1357 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-RPC HIGH DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31.18 ACRES, MORE OR LESS" filed on behalf of Kenneth Woodring was discussed. A Public Hearing was held on this application on December 1, 1998, at which time the Public Hearing was left open for the applicant to submit (1) a new plan showing increased setbacks and (2) a list of amenities planned for the project. The Public Hearing record

Update/  
C/U  
No. 1357  
(con't)

remained open until December 8th for this information; the Public Hearing record continued to remain open until December 15th to permit written comments in response to the additional information submitted by the applicant. The Council reviewed the new plan and the proposed stipulations submitted by the applicant. Correspondence received was entered into the record and the Public Hearing was closed. Mr. Cole expressed concern about the future plans for the surrounding area, stating that he would like more information about what is being proposed for the entire area prior to making a decision on this application. Mr. Cole's concerns centered around the density issue and in setting a precedent in the area.

Old  
Business/  
C/U  
No. 1261

Conditional Use No. 1261 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT STORAGE AND BOAT MOTOR REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS" filed on behalf of Frank E. Appel and Dick Appel was discussed. A Public Hearing was held on this application on October 27, 1998, at which time action was deferred until the Board of Adjustment rendered a decision.

M 575 98  
Adopt  
Ordinance  
No. 1276  
(C/U  
No. 1261)

A Motion was made by Mr. Jones, seconded by Mr. Cole, to Adopt Ordinance No. 1276 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT STORAGE AND BOAT MOTOR REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.64 ACRES, MORE OR LESS" (Conditional Use No. 1261) filed on behalf of Frank E. Appel and Dick Appel, with the following conditions:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.
2. Security lighting, if installed, shall be directed away from neighboring properties and Road 626.
3. The maximum number of boats to be parked outside shall be twenty (20). The area for outside parking of boats shall be fenced to screen the boats from neighbors.
4. This approval is for the dry storage of boats and boat repair only, and shall not include auto repair or painting.
5. One (1) unlighted sign, not to exceed 32 square feet per side or facing, may be permitted.
6. This approval shall not take effect until all stored automobiles have been removed from the site, but shall expire at the end of one year if the removal process is not complete.

M 575 98 Motion Adopted: 5 Yea.  
(con't)

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

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

1. The applicants established by substantial evidence that the proposed use will permit the applicants to continue to provide marine services to the community and surrounding area, while correcting any ordinance violation, and with the conditions imposed hereafter, causing no adverse impact of any sort on neighboring property values, traffic or the environment in the area.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Old Business/  
C/Z  
No. 1355

Change of Zone No. 1355 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 PLANNED COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 40.62 ACRES, MORE OR LESS" filed on behalf of Consolidated Land Trust, L.L.C. was discussed. A Public Hearing was held on this application on November 10, 1998, at which time action was deferred.

M 576 98  
Adopt  
Ordinance  
No. 1277  
(C/Z  
No. 1355)

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Ordinance No. 1277 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 PLANNED COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 40.62 ACRES, MORE OR LESS" (Change of Zone No. 1355) filed on behalf of Consolidated Land Trust, L.L.C., with the following conditions:

1. The number of units shall not exceed 88 single family detached dwelling units.
2. The site plan shall be incorporated into the record as the preliminary.
3. The final site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.
4. RPC shall be connected to central sewer and water.

M 576 98 Motion Adopted: 3 Yea, 1 Nay, 1 Abstention.  
(con't)

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

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

1. The applicant established by substantial evidence that the change of zone is in accordance with the Comprehensive Land Use Plan and will have no adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Old Business/ C/Z No. 1358 Change of Zone No. 1358 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.16 ACRES, MORE OR LESS" filed on behalf of Taggart Family Trust was discussed. A Public Hearing was held on this application on December 1, 1998, at which time action was deferred.

M 577 98 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1278 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.16 ACRES, MORE OR LESS" (Change of Zone No. 1358) filed on behalf of Taggart Family Trust.

Motion Adopted: 5 Yea.

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

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

1. The applicant established that the change of zone will conform with the Comprehensive Land Use Plan, and with the proposed professional office properly placed to the southern side of the property, there will be no adverse impact of any sort.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Proposed Ordinance Mr. Collins introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A GOVERNMENTAL BUILDING (ARMORY) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.43 ACRES, MORE OR LESS" (Conditional Use No. 1268) filed on behalf of State of Delaware, Delaware National Guard. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MILLWORK (CABINETS, ETC.) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 1.78 ACRES, MORE OR LESS" (Conditional Use No. 1269) filed on behalf of Beverly A. Trice. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMMUNITY CENTER WITH RECREATION FACILITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS" (Conditional Use No. 1270) filed on behalf of Victory Fellowship Crusade. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Jones introduced 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. 1363) filed on behalf of 1st State Storage Company. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Jones introduced 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 1.75 ACRES, MORE OR LESS" (Change of Zone No. 1364) filed on behalf of Northeast Bel Corp. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Cole 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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.765 ACRES, MORE OR LESS" (Change of Zone No. 1365) filed on behalf of Deborah S. Appleby. The Proposed Ordinance will be advertised for Public Hearing.

Corre- Mr. Cole submitted into the record correspondence from  
spondence Charles H. Snyder, Chief, Rehoboth Beach Volunteer Fire  
Company, to Mr. Joseph Thomas, Sussex County Director of  
Emergency Operations, describing problems/concerns with  
the 800 MHZ system.

M 578 98 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to  
Council- give \$400.00 from Mr. Cole's Councilmanic Account to West  
manic Side New Beginnings, Inc. to be used to purchase tickets  
Grant to the Slam Dunk Tournament for ten people. (Mr. Cole  
specified that tickets be purchased for school/college  
students).

Motion Adopted: 5 Yea.

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

M 579 98 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to  
Council- give \$500.00 from Mr. Dukes' Councilmanic Account to the  
manic Laurel Fireworks Celebration for the fireworks display and  
Grant related expenses.

Motion Adopted: 5 Yea.

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

M 580 98 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to  
Council- give \$100.00 from Mr. Dukes' Councilmanic Account to Laurel  
manic High School for improvements to the Laurel High School base-  
Grant ball field.

Motion Adopted: 5 Yea.

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

M 581 98 At 12:35 p.m., a Motion was made by Mr. Jones, seconded by  
Recess Mr. Rogers, to recess until 1:30 p.m. Motion Adopted by  
Voice Vote.

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

Attorney Mr. Berl, Assistant County Attorney, served as legal counsel  
during the afternoon session.

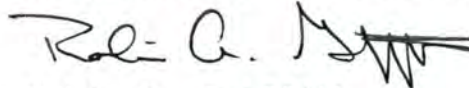
Conflict Mr. Rogers was not in attendance due to a possible conflict  
of of interest with Change of Zone No. 1359, filed on behalf of  
Interest Bryce M. Lingo and T. William Lingo.

Public  
Hearing  
(C/Z  
No. 1359)

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 62.60 ACRES, MORE OR LESS" (Change of Zone No. 1359) filed on behalf of Bryce M. Lingo and T. William Lingo. Representatives for the applicant advised that, since the Public Hearing held before the Planning and Zoning Commission, the number of units has been reduced from 195 to 177; in addition, the proposed plans accommodate concerns relating to a pending legal matter regarding property encroachments. Public comments were heard and the Public Hearing was closed. Action was deferred.

M 582 98 A Motion was made by Mr. Collins, seconded by Mr. Cole, to  
Adjourn adjourn at 4:25 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council