

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 21, 1999

Call to
Order

The regular meeting of the Sussex County Council was held Tuesday, December 21, 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 672 99
Approve
Agenda

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to amend the Agenda by deleting the following:

“Russell W. Archut, Assistant County Engineer

1. Proposed Oak Orchard Sanitary Sewer District

A. Proposed Resolution”;

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

Corre-
spondence

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

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON,
NEW JERSEY.

RE: Public Notice: Project Review Applications Received.

AIR QUALITY MANAGEMENT, DELAWARE DEPARTMENT OF
NATURAL RESOURCES AND ENVIRONMENTAL CONTROL,
DOVER, DELAWARE.

Corre-
spondence
(continued)

RE: Notice of Public Hearing on proposed amendments to the State of Delaware State Implementation Plan (SIP) for the Attainment and Maintenance of the National Ambient Air Quality Standard for Ozone.

MARIAN BAU, DIRECTOR, CASA SAN FRANCISCO, MILTON, DELAWARE.

RE: Letter in appreciation of the County's Caroling on The Circle food donation.

JIM LITTLETON, VISION DAYS CHAIRMAN, LAUREL, DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

CPL. JOHN OWINGS, CHAIRMAN, NEEDY FAMILY PROJECT, TROOP #5, DELAWARE STATE POLICE, BRIDGEVILLE, DELAWARE.

RE: Funding request for the Needy Family Christmas Program.

Dewey
Beach –
Rehoboth
Beach
Water
Agreement

Mr. Stickels discussed an Agreement between the City of Rehoboth Beach and Sussex County for the purchase of water from the City to supply users within the Dewey Beach Water District. The term of this Agreement will be enforced for a period commencing April 1, 2000 and terminating March 31, 2005. It is agreed that the supply of water to be furnished by the City to the County will not exceed the following maximum amounts without written consent:

Maximum Daily Supply (in gallons) - 2,800,000

Maximum Annual Supply (in gallons) - 310,000,000

The County will pay to the City a basic rate of \$1.20 per 1,000 gallons of all water purchased effective April 1, 2000. This basic rate will increase \$.04 per 1,000 gallons of water each succeeding April 1 starting April 1, 2001. A peak use surcharge of \$.60 per 1,000 gallons of water purchased will be charged during the period April 1 through September 30 of each year. This peak use surcharge is in addition to the basic rate.

The County will purchase and pay the premiums for insurance in which both the City and the County shall be named as parties insured to protect the City from any liability.

M 673 99
Authorize
Dewey
Beach
Water
Agreement

A Motion was made by Mr. Cole, seconded by Mr. Dukes, that the Sussex County Council President is authorized to execute an Agreement between the City of Rehoboth Beach and Sussex County for the purchasing of water for the Dewey Beach Water District, contingent on the approval of the County's insurance consultant and Internal Auditor.

M 673 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

911
Mobile
Command
Post

Mr. Stickels announced that the County has taken delivery of the Sussex County Emergency Operations 911 Mobile Command Post. The vehicle is a 2000 Thomas built bus chassis. Matthews Specialty Vehicles of Archdale, North Carolina, customized the vehicle to Sussex County's specifications. It has been designed to fully meet Sussex County's needs as an emergency response command vehicle. Some of the special features of the vehicle are: a room set up as a dispatch area, a conference room, a telescoping mast, an uninterruptible power supply, and scene lighting. These features along with many others will help the Sussex County Emergency Operations Center when responding to assist the residents of Sussex County after a major storm or other disaster. The vehicle will also be used to assist fire departments at major alarms and will serve as an alternate dispatch center for the Emergency Operations Center. The cost of this vehicle was \$188,547.00. There was no debt incurred by the County as a result of this purchase.

Adminis-
trator's
Report

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

1. Holiday Schedule

Sussex County offices will be closed December 24, 1999, for the Christmas holiday. Offices will not reopen until 8:30 a.m. on Tuesday, December 28, 1999. There will not be a Council meeting on Tuesday, December 28, 1999.

Offices will also be closed December 31, 1999, for the New Years' holiday. Offices will reopen Monday, January 3, 2000, at 8:30 a.m. The next regularly scheduled Council meeting will be Tuesday, January 4, 2000, starting at 10:00 a.m. in the Council Chambers, County Administrative Office Building, Georgetown.

2. South Coastal Regional Wastewater Facility Annual Compliance Inspection

The Department of Natural Resources and Environmental Control conducted the annual National Pollution Discharge Elimination System Compliance Inspection on October 7, 1999. The Facility was evaluated as satisfactory in all areas. Total suspended solids of effluent were 5.0 parts per million. The biochemical oxygen demand of the effluent was 2.5 parts per million. Our discharge

Adminis-
trator's
Report
(continued)

permit allows a maximum of 23 parts per million and an average of 15 parts per million for both total suspended solids and the biochemical oxygen demand. The fecal coliform bacteria count was 20 colonies per 100 milliliters of effluent. The permit allows for an average of 200 colonies in 100 milliliters of effluent.

The Sussex County Council and the users of the South Coastal Regional Wastewater Facility should be proud of the Facility and the Operations and Maintenance staff. Without a conscientious, hardworking staff, the South Coastal Facility would not have such a consistently high quality effluent and receive excellent evaluations from the State and the U.S. EPA. I am also pleased to inform Council that the Department of Natural Resources and Environmental Control has nominated the South Coastal Regional Wastewater Facility for the 1999 EPA Region III Operation and Maintenance Excellence Award.

The following employees are responsible for this excellent report:

Richard Baker	Paula Marvel
Harvey Brasure	Rodney Marvel
George Cain	Roxy Merz
Gerald Cusato	Nathan Mitchell
Norris Derrickson	Van Mitchell
Charles Dixon	Bryan Outten
Rodger Dixon	Eddie Pusey
Loran George	George Robinson
Barry Harrington	Jimmy Robinson
Steve Hickman	Heather Sheridan
Ann Hobbs	Kenney Stevenson
Steve Hudson	Brian Thomas
David Johnson	Kevin VanAuken
David Jones	Bill Wells
Greg Justice	Robert West
Dana Lathbury	Dale White

Each one of the employees has their own area of responsibility, and their excellent teamwork is obvious as a result of the inspection.

Absence-
Councilman

Mr. Phillips left the meeting at this time. Mr. Phillips did not participate in the Public Hearing nor any discussions on Conditional Use No. 1314 (Perdue-AgriRecycle, LLC) due to a possible conflict of interest.

Old
Business/
C/U
No. 1314

Conditional Use No. 1314 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" filed on behalf of Perdue-AgriRecycle, LLC was discussed.

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

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.

On December 14, 1999, Mr. Lank, Director of Planning and Zoning, reviewed letters and petitions that were received following the public hearing and prior to the deadline established by Council on November 30, 1999. Findings of Fact from Mr. Malkewicz, Attorney for the Opposition, and Mr. Sergovic, Attorney for the Applicant, were also submitted to Council prior to the deadline. Also, on December 14, 1999, Mr. Bayard, County Attorney, provided his opinion that the application could proceed as a conditional use.

Council members reviewed the 14 stipulations recommended by the Planning and Zoning Commission. Amendments to these stipulations and additional stipulations were discussed.

M 674 99
Adopt
Ordinance
No. 1354
(C/U
No. 1314)

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Ordinance No. 1354 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, with the following stipulations:

M 674 99
(continued)

1. The conditional use area shall be strictly limited to the improvements shown on the site plan and attached supplements, the site plan prepared by McCrone. Any future additions, alterations, or improvements shall be subject to an application and public hearings to amend this conditional use.
2. The proposed truck entrance shall be located as shown on the supplement to the site plan north of the boundary of the lands of Victor E. Moore, parcel 92, and shall have the buffer areas shown on the supplement the site plan vegetated with native trees and Leyland Cypress.
3. The proposed truck entrance shall be improved to limit dust with bituminous surface treatment, as a minimum, from Route 13A back to the railroad right-of-way.
4. Movement of rail cars within the conditional use area for loading purposes shall be limited to daylight hours. The drop-off and pick-up of rail cars by the rail company servicing the spur is not restricted.
5. Rail cars shall be cleaned off-site.
6. All truck trailers shall have the raw litter enclosed in waterproof tarps and shall be designed to prevent leakage.
7. Truck travel to the site shall be during daylight hours limited to Monday through Saturday.
8. The pelletized product of the processing plant shall be shipped in enclosed railroad cars or enclosed tractor-trailers.
9. All activities shall be limited to the inside of the building. The loading, unloading, and processing of raw material/litter shall be within the negative air section of the building. The loading of the finished product into transport vehicles shall be under the roof.
10. The noise and odor emissions from the plant shall be controlled by the negative air system, and shall be controlled by using bag houses, cyclone fans and air scrubbers; in no event shall the plant be allowed to operate with noise or odors exceeding minimum standards established by the Department of Natural Resources and Environmental Control or any other agency having jurisdiction over the project.

M 674 99
(continued)

11. The lands shown on the site plan as cultivated and acquired from E. Jean Fleetwood shall remain in the wooded and cultivated state north of the truck entrance and shall be enhanced with native trees and Leyland Cypress in the buffer areas shown on the supplement to the site plan.
12. All woodland areas within the site and shown as woodland areas will remain as woodland, cut-over woodland will be allowed to mature.
13. All timber areas will only be harvested with mandatory replanting after harvest. No harvesting shall occur within 100 feet of a property line or public roadway.
14. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
15. A vegetated buffer shall be planted at the time on-site construction begins.
16. A poultry processing plant will not be permitted on the site.
17. All lighting on the site shall be directed towards the site and no lighting shall be directed off-site.
18. No operating hours will be permitted on Sunday.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Absent; Mr. Cole, Yea;
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:

The applicant, Perdue-AgriRecycle, LLC is a recently formed business entity, combining the experience of Perdue Farms Incorporated, an established poultry producer on the Delmarva Peninsula with experience in pelletization, and AgriRecycle, Inc., which has knowledge in the field of micro-nutrient production, through recycling of poultry manure and marketing of the pelletized micro-nutrients.

The applicant has applied for a conditional use on 228± acres of land for a micro-nutrient plant which will be housed in a building 100' x 630'. The remaining portion of the property is to be preserved, except for roads and rail, in production farmland and/or timberland.

Findings
of Fact
(continued)

The proposed facility will have the same physical impact being viewed from off the property as would two chicken broiler houses, and the proposed building is compatible with traditional farm buildings in AR-1 Districts in Sussex County. The building is designed with a conveyor belt tower of 90± feet and a 60± foot rail car loading or staging tower which are exempt from height limits by Sussex County Code § 115-179.

The proposed use, as applied for through the conditional use permit, is a use which is designed to benefit the family farm and agricultural industry in Sussex County, particularly the poultry growers in Sussex County. The use is designed to enable the poultry growers to eliminate a potential source of excess nitrates and phosphates being deposited in the soils of Sussex County. The historic spreading of chicken litter without appropriate controls on farmlands within Sussex County and the Delmarva Peninsula is reported by environmental experts as contributing to the contamination problems in the tidal waters and tributaries of the Delmarva Peninsula.

The proposed micro-nutrient process uses a waste by-product of the poultry industry productivity and reduces the cost of waste by-product disposal for poultry growers. The process allows the original poultry waste by-product to be converted to a micro-nutrient for resale off the Delmarva Peninsula to be utilized in areas where current soils are deprived of the nutrients.

Enhancing the environmental quality of life in Sussex County is a goal of the Comprehensive Plan, and a conditional use permit has, for its purpose, the location of uses which are generally of a public or semi-public character, and are essential and desirable to the general convenience and welfare. The application, as presented, meets both the goal and purpose thereby established.

The applied for use meets the criteria that the proposed use is for the general convenience and welfare of the entire community, but does require the exercise of planning judgment as to the location and site plan.

The conditional use approval process allows the County to condition its approval by imposing restrictions, and the County Council hereinafter imposes conditions on the application approval to lessen its impact on the surrounding neighborhood.

Authorization of this use by conditional use permit is appropriate. The use is not a specified use listed in either the LI-1, LI-2 or heavy industrial zoning districts of Sussex County.

Findings
of Fact
(continued)

While the resulting product is akin to a product produced in fertilizer manufacturing, the plant design and process is a recycling facility. The plant will use a negative air flow system and it will operate within a completely enclosed environment which is designed to minimize, if not eliminate, odors and noise from extending beyond the enclosed plant by use of air scrubbers and cyclone fans. The process utilized and the technology of the proposed micro-nutrient plant does not fit within any particular zone established by the Sussex County Zoning Ordinance. Due to the need for enhancing the ability of the poultry industry to protect the local environment, a conditional use is an appropriate zoning method for permitting a use, which will provide community-wide benefits and the ability to recycle a potential environmentally damaging by-product of the poultry industry.

The Sussex County Council finds that the restrictions and enhancements to the property which are hereinafter imposed will reduce impacts, if any, on immediately neighboring properties. The closest residence is approximately one-half mile from the plant, and the screening proposed by the applicant and the retention of woodlands should screen the plant's operation from immediate view by any residents.

The plant is to be served solely by covered trucks. The Sussex County Council recognizes that the need to control odors through fully enclosed trucks will be required as a condition of the permit that all trucks containing poultry litter coming to the property must be covered, with the failure of a contract truck driver to maintain a covered product to be subject to probable termination.

The proposed use is partially located within a development district under the 1997 Sussex County Comprehensive Development Plan, and is therefore an appropriate location for a recycling plant which serves the Delmarva agricultural community. Although the plant itself is located in an agricultural district, it is in compliance with the Comprehensive Plan, since facilities designed to enhance and benefit the agricultural community are permitted in all agricultural districts. The use supports, and in turn is dependent upon local agricultural product and by-products. (See Comprehensive Plan at Page 11.)

The location of the plant is appropriate. The plant needs to be served by a spur rail line to ship the finished product from the Delmarva Peninsula. The location of the plant is centralized with respect to a concentration of the poultry growers within Sussex County, and is served by an adequate road system not part of the major north-south through traffic roadway of Route 13 or Route 113.

Findings
of Fact
(continued)

Granting the conditional use permit should enhance the quality of life in Sussex County by providing an alternative source of disposal of poultry waste, and will allow a continuation of the poultry industry in Sussex County providing poultry growers with an option to be more environmentally responsible.

The proposed use which is designed to provide assistance to the poultry growing industry, a major part of the eastern shore agricultural business community, protects a viable economic base of Sussex County, and will provide the poultry growers the opportunity to meet ever-increasing stringent environmental standards imposed by the State and Federal government on their operations.

The proposed use will be economically beneficial to the County in that it will create from 15 to 20 skilled and semi-skilled jobs. The jobs will have a multiplier effect for the economy of Sussex County. The need to retain skilled and semi-skilled jobs in Sussex County is particularly crucial at this junction, since the Dupont Plant has announced a reduction of employees by 600, or one-third of the existing employees in the year 2000.

The tax base of Sussex County will be increased by the assessment for the plant authorized by the conditional use permit, and the local school districts will be benefited by an increase in tax base, without any additional burdens by reason of increased population on the lands conditionally zoned.

The Planning and Zoning Commission has recommended approval with conditions. The Sussex County Council accepts and adopts the findings of the Planning and Zoning Commission in principle, but modifies the proposed conditions in certain aspects as hereinafter provided.

The Sussex County Council finds that the subject micro-nutrient plant operation will dry, pasteurize and pelletize natural poultry waste within an enclosed plant. This type of facility is not addressed in any of the specific zoning districts established under the Sussex County Comprehensive Zoning Ordinance. The use is best authorized by a conditional use permit, as opposed to a rezoning of the 228 acres of land, so that a majority of the land not required for the plant can be restricted as to use. The below imposed conditions could not be imposed by the Sussex County Council in an ordinance rezoning the property LI-1, or any other non-conditional use zoning classification.

The proposed use will also be subject to permit requirements and regulation requirements of the Delaware Department of Natural Resources and Environmental Control controlling noise, odor, surface run-off, dust and wastewater disposal; the Delaware Department of

Findings
of Fact
(continued)

Transportation controlling entrance and truck route access; and the federal government relating to rail use. These agencies will control the operation within their areas of expertise, which is in addition to the conditions that the Sussex County Council can legislatively impose within its area of expertise.

The County Council adopts the position of the Applicant as set forth in its letter to the Council dated December 7, 1999, which document is incorporated herein by reference, and finds that the appropriate method of implementing the rezoning sought for the Applicant's micro-nutrient processing facility, together with truck entrance and rail spurs, is through a conditional use.

The County Council finds that by authorizing the use through a conditional use procedure, the County can impose restrictions and conditions on the use which are designed to provide assurance that the facility will be operated so as to minimize any impact to the community and neighborhood in which the use is located.

By the conditional use approval, the County can impose appropriate conditions on the Applicant's use of the property. If the Applicant's proposed use were approved through a district rezoning of lands, then all uses that would be authorized in that district would be authorized at the property, and the County could not impose specific restrictions and conditions upon such use to provide assurance that the Applicant's use of the property will be compatible with uses permitted in the surrounding area and otherwise operate in harmony with the community.

Councilman

Mr. Phillips rejoined the meeting.

Generator
Installation/
Change
Order

Mr. Marvel, Maintenance Division Manager, discussed Change Order No. 1 to Sussex County Project No. 99-04, Generator Installation for Station No. 40 and 43. The change order is in the credit amount of \$300.00. A brief description of the change order is as follows:

- (1) Due to a delay in the generator and transfer switch delivery, John W. Tieder, Inc. will not be able to complete the job within the contract time requirements.
- (2) Due to the paving patch being very small, no outside contractor was interested in performing the work. The Operations and Maintenance Division can complete the work in-house for a lesser cost.

Generator
Installation
(continued)

Mr. Marvel advised that the generators have been installed and are working; however, there are still punch-list items remaining. Mr. Marvel recommended that substantial completion be granted to the contractor, John W. Tieder, Inc., effective December 19, 1999.

M 675 99
Approve
Change
Order/
Generator
Installation

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Engineering Department, that the Sussex County Council approves Change Order No. 1 for Sussex County Project No. 99-04, Generator Installation for Station No. 40 and 43, which extends the contract time from 120 to 129 calendar days and reduces the contract total by \$300.00 to a final amount of \$219,214.00; substantial completion is therefore granted to the contractor, John W. Tieder, Inc., effective December 19, 1999.

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/
CDBG

A Public Hearing was held to give all citizens an opportunity to participate in the development of an application to the State of Delaware Community Development Block Grant Program for a grant under the provisions of the Community Development Act of 1977. The primary objective of the Community Development Program is the development of viable urban communities including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. It is also a primary objective to alleviate physical and economic distress through the stimulation of private investment and community revitalization in areas of population out-migration or a stagnating or declining tax base.

The Community Development Block Grant is a federal grant from the Department of H.U.D. to the Delaware State Housing Authority. Kent and Sussex Counties compete for the approximately \$1.7 Million in funding by making application to the Delaware State Housing Authority. Historically, 70 percent of the \$1.7 Million is for housing rehab, demolition or code enforcement and 30 percent is for infrastructure projects (streets, walks, water projects and sewer projects are eligible). All funding for infrastructure projects must have match funds by the local community. The maximum grant is \$700,000 unless there is an infrastructure project involved.

Mr. Stickels reviewed the income guidelines, which have been established, and other criteria which applicants must meet to be eligible to receive funding under the CDBG Program.

Public
Hearing/
CDBG
(continued)

Mr. Stickels advised that Sussex County will be applying for \$2.3 Million of the \$1.7 Million available to Kent and Sussex Counties. The application will consist of projects in the County and fifteen (15) towns.

A Proposed Resolution entitled “FAIR HOUSING FOR THE CITIZENS OF SUSSEX COUNTY” was presented to Council for consideration.

A Proposed Resolution entitled “ENDORISING PROJECTS TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING ROBERT L. STICKELS, COUNTY ADMINSTRATOR, TO SUBMIT APPLICATIONS” was presented to Council for consideration. The Proposed Resolution lists the following projects to be submitted to the Delaware State Housing Authority for funding:

Application No. 1:

Lucas Development	60,000	Housing Rehab/Demo
Rural Lincoln	96,000	Housing Rehab
Coverdale Crossroads	30,000	Housing Rehab
West Rehoboth	30,000	Hookups
Rural Middleford	30,000	Housing Rehab
Rural Dagsboro/Millsboro	85,000	Housing Rehab
Scatter Site	359,000	Housing Rehab
Administration	<u>120,000</u>	
Total	800,000	

Application No. 2:

Blades	75,000	Housing Rehab
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Application No. 3:

Bridgeville	75,000	Housing Rehab
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Application No. 4:

Dagsboro	45,000	Housing Rehab
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Application No. 5:

Ellendale	45,000	Housing Rehab
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Public
Hearing
(continued)

Application No. 6:

Frankford	75,000	Housing Rehab/Demo
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Application No. 7:

Georgetown	239,181	Infrastructure
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Application No. 8:

Greenwood	75,000	Housing Rehab/Demo
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Application No. 9:

Laurel	135,000	Housing Rehab
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Application No. 10:

Millsboro	67,000	Shelter/Housing Rehab/ Demo
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Application No. 11:

Milford	75,000	Housing Rehab
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Application No. 12:

Milton	41,250	Housing Rehab
	218,750	Infrastructure

Application No. 13:

Ocean View	120,000	Hookups/Housing Rehab
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Application No. 14:

Rehoboth	35,000	Infrastructure
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Application No. 15:

Seaford	135,000	Housing Rehab
	50,000	Demo
	130,000	Infrastructure

Application No. 16:

Selbyville	47,750	Infrastructure
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Hearing There were no public comments and the Public Hearing was closed.

M 676 99 A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt
Adopt Resolution No. R 027 99 entitled "FAIR HOUSING FOR THE
Resolution No. CITIZENS OF SUSSEX COUNTY".

R 027 99 Motion Adopted: 5 Yea.

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

M 677 99 A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt
Adopt Resolution No. R 028 99 entitled "ENDORING PROJECTS TO BE
Resolution No. SUBMITTED TO THE DELAWARE STATE HOUSING
R 028 99 AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING
ROBERT L. STICKELS, COUNTY ADMINISTRATOR, TO
SUBMIT APPLICATIONS".

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/ A Public Hearing was held on an appeal of the Sussex County Planning
Appeal/ and Zoning Commission's decision regarding an application of Lee
Smith Littleton to consider the subdivision of land in a GR General
Acres Residential Zoning District in Little Creek Hundred, by dividing 8.76
Subdivision 457 (Smith Acres Subdivision – Subdivision No. 98-11). The Planning
& Zoning Commission approved the application as a preliminary with
the following stipulations:

1. A cul-de-sac shall be provided at the end of the private street near Lot 6.
2. An easement shall be depicted to William Carr's property on the final record plan.
3. The stormwater management area shall be depicted on the final record plan.
4. An approval from Delmarva Power and Light shall be required prior to final approval.

Public
Hearing/
Appeal
(continued)

On November 16, 1999, the County Council discussed a letter received from Donald K. Miller of Miller-Lewis, Inc., on behalf of Lee Littleton, requesting that the County Council waive the stipulation that a cul-de-sac be constructed at the end of Smith Street. At that time, a discussion was held regarding the County's Ordinance that allows a dead-end street of up to 300 feet in length and the length of Smith Street (282 feet). Questions were raised regarding the problem dead-end streets create for public safety providers. It was noted that no comment was received from the fire service regarding this application.

Mr. Abbott reported that on December 14, 1999, a letter was received from the Office of the State Fire Marshall stating that in reference to the cul-de-sac at the end of Smith Street, the cul-de-sac at this location would not be required by the Delaware State Fire Prevention Regulations since the dead-end street does not exceed 300 feet in length. A letter was also received from the Fire Chief of the Delmar Fire Department stating that no additional cul-de-sac is necessary to provide emergency services to this area.

Mr. Bayard advised Council that since November 16, 1999, the date Council first discussed this appeal, it has been determined that the appeal was not filed in a timely manner. Appeals are required to be received no later than 60 days from the date of the decision. The Planning & Zoning Commission made their decision on January 28, 1999 and the letter of appeal was received on October 6, 1999 – a period of time exceeding the 60-day requirement. For this reason, Council was advised that they could not consider the appeal; that Council is "disabled from hearing an appeal that is barred by time"; and that the appeal must be dismissed.

The applicant was advised that he could re-file a new subdivision application for this property based on information he has recently received from the State Fire Marshall's Office and the Delmar Fire Department; information that was not available at the public hearing before the Planning & Zoning Commission.

M 678 99
Dismiss
Appeal/
Smith
Acres
Subdivision

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to dismiss the appeal regarding Smith Acres Subdivision – Subdivision No. 98-11, an application of Lee Littleton, and to strongly recommend that the Planning & Zoning Commission waive the fee for a new application to be filed by Mr. Littleton.

Motion Adopted: 5 Yea.

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

Beebe
Medical
Center
Extension
Request/
West
Rehoboth

Mr. Archut, Assistant County Engineer, discussed a request from Beebe Medical Center for annexation of their property into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The property is adjacent to the West Rehoboth expansion area and it has been evaluated as part of the West Rehoboth expansion study recently adopted by the County Council. Mr. Archut requested Council's approval to prepare and post notices for this extension.

M 679 99
Authorize
Preparation
and
Posting of
Notices/
Beebe
Medical
Center
Extension
Request

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 West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District boundary to include the Beebe Medical Center property, as presented on December 21, 1999.

Motion Adopted: 4 Yea, 1 Absent.

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

Bay View
Estates SSD/
Consultant
Selection

Mr. Archut, Assistant County Engineer, discussed the Consultant Selection Contract relating to the Proposed Bay View Estates Sanitary Sewer District. On August 28, 1999, a Public Hearing was held on the Proposed District; Council approved the boundaries on September 21, 1999. The boundaries at this time for the District include only the Delaware portion of Bay View Estates; it does not include the Maryland portion nor any adjacent areas. Mr. Archut advised that in the process of preparing for a referendum on this Proposed District; a Preliminary Engineering Report must be prepared to estimate the costs and user charges. Through the Consultant Selection process, Whitman, Requardt & Associates was selected to do all the planning, designing, and construction coordination in the South Coastal area through December 31, 2002. This project is located in the South Coastal planning area and; therefore, does fall within their contract. A cost estimate to perform this work has been submitted by Whitman, Requardt & Associates; the estimate submitted was \$46,255.00. The scope of work includes not only looking at the Delaware portion of Bay View Estates, but also the impact of what it will cost to bring the Maryland portion of Bay View Estates and Sea Country Estates into the District. These areas have expressed interest in sewer and they are contiguous to the Proposed District.

M 680 99
Execute
Agreement

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the President of the Sussex County Council is hereby authorized to execute an Agreement with Whitman, Requardt & Associates for preparing a Preliminary Engineering Report for the Proposed Bay View Estates

M 680 99 Sanitary Sewer District, in an amount not to exceed \$46,255.00, subject
Execute to the final review and approval of the Sussex County Attorney and the
Agreement/ Internal Auditor, as presented on December 21, 1999.

Bay
View Motion Adopted: 5 Yea.

Estates
(continued) Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

Y2K
Update Mr. Izzo, County Engineer, and Mr. Hudson, Director of Maintenance,
provided a status update on the County's preparation for the Y2K
situation. Last spring, the County Council adopted a Y2K
Implementation Plan in reference to the County's responsibilities
relating to the sewer and water districts. Mr. Izzo informed Council
that all Operations and Maintenance employees have been put on
stand-by starting New Years Eve and all employees have been advised
that they are to be accessible. Mr. Izzo discussed several concerns
relating to Y2K and the County's plans as to how they will be
addressed, i.e. localized or widespread power failures, pumping or
treatment equipment failures, phone service failure, and Operations and
Maintenance Alarm System failure (Intrac). Mr. Izzo also reported on
the preparations that have taken place: generators have been obtained
and assigned, all generators have been serviced and tested, all generator
fuel tanks have been filled, all vehicle fuel tanks have been filled, all
essential equipment has been tested or researched for Y2K compliance,
all Operations and Maintenance personnel have been informed of their
responsibilities, storage lagoons at treatment facilities have been drawn
down to minimum levels, and all chlorine tanks have been filled.

Red Mill
Pond
South/
Balancing
Change
Order Mr. Izzo, County Engineer, reviewed a balancing change order for
Sussex County Project No. 96-03, Contract WIII-1, Red Mill Pond
South, in the West Rehoboth Expansion of the Dewey Beach Sanitary
Sewer District (Phase III). The contract was closed out in September,
1999; since that time, there have been approximately 190 connections
to the sanitary sewer system. The total cost of the contract was based
on time and materials and completion of the project resulted in a
change order in the credit amount of \$100,582.55.

M 681 99 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based on
Approve the recommendation of the Consulting Engineer, George, Miles &
Red Mill Buhr, LLP, and the Sussex County Engineering Department, that the
Pond balancing change order for Sussex County Project No. 96-03, Contract
South/ WIII-1, Red Mill Pond South, be approved in the credit amount of
Balancing \$100,582.55, thereby establishing the final contract amount as
Change \$4,779,969.49.
Order

M 681 99
(continued)

Motion Adopted: 4 Yea, 1 Absent.

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

Five
Points
North/
Change
Order

Mr. Izzo, County Engineer, reviewed Change Order No. 3 for Contract WRIII-3, Five Points North, in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Construction of this contract has been completed; however, it was discovered that the mobile radios purchased through this contract needed to be updated to make them compatible with the SCADA System. The change order, in the amount of \$4,174.00, will place new radios at the four pumping stations in the contract. The radios previously purchased for these pumping stations will be used for other purposes.

M 682 99
Approve
Change
Order/
Five
Points
North

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based on the recommendation of the Consulting Engineers, George, Miles & Buhr, LLP, and the County Engineering Department, that the Sussex County Council approves Change Order No. 3 for Contract WRIII-3, Five Points North, in the amount of \$4,174.00, to correct deficiencies in the radios for the alarm systems of the pump stations.

Motion Adopted: 4 Yea, 1 Absent.

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

Airport
Water and
Sewer/
Substantial
Completion

Mr. Sapp, Project Engineer, announced that the Airport Sewer and Water Project is substantially complete. The pump station is operational and all sewer and water hook-ups have been done. A Balancing Change Order will be submitted to Council once all punch-list items have been completed.

M 683 99
Grant
Substantial
Completion/
Airport
Water and
Sewer
Project

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council grants a two (2) day time extension due to weather delays and grants Substantial Completion to Hopkins Construction, Inc. which starts the one-year warranty period and the County's Insurance Policy, for Sussex County Project No. 98-07, Airport Sewer and Water Installation, effective December 16, 1999; a balancing change order will follow and all held retainage shall be released pending punch-list item performance approval from the Sussex County Engineering Department.

Motion Adopted: 4 Yea, 1 Absent.

M 683 99
(continued)

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

Runway
10-28/
Preliminary
Study

Mr. Sapp, Project Engineer, reported on the Runway 10-28 Preliminary Study. All changes recommended by the FAA, the public, the Engineering Department, the Airport Committee, the Airport Advisory Committee and the County Council have been incorporated into the Study. Mr. Sapp recommended that the Study be adopted so that the County can move forward with engineering and environmental studies.

M 684 99
Runway
10-28/
Preliminary
Study

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council adopts the Runway 10-28 Preliminary Study for implementation by the Engineering Department.

Motion Adopted: 4 Yea, 1 Absent.

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

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 HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10.90 ACRES, MORE OR LESS" (Change of Zone No. 1394) filed on behalf of Robino Sea Chase, L.L.C. 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.41 ACRES, MORE OR LESS" (Change of Zone No. 1395) filed on behalf of Route 24 Auto Sales. 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 HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND

Proposed Ordinance (continued)

LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.05 ACRES, MORE OR LESS” (Change of Zone No. 1396) filed on behalf of Bayside Development Group, Inc. The Proposed Ordinance will be advertised for Public Hearing.

M 685 99 Recess

At 11:55 a.m., a Motion was made by Mr. Rogers, 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 1:38 p.m.

M 686 99 Councilmanic Grant

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$250.00, \$125.00 each from Mr. Dukes’ and Mr. Jones’ Councilmanic Accounts, to the Needy Family Project, Troop #5, Delaware State Police, for the Needy Family Christmas Program.

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. 1391)

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 18,809.90 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1391) filed on behalf of Lawrence K. and Rosalee A. Huber.

The Planning and Zoning Commission held a Public Hearing on this application on December 9, 1999, at which time they recommended that the application be approved.

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

M 687 99 Adopt Ordinance No. 1355 (C/Z No. 1391)

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Ordinance No. 1355 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 18,809.90 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1391) filed on behalf of Lawrence K. and Rosalee A. Huber.

Motion Adopted: 5 Yea.

M 687 99
(continued)

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
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 because of the property's existing zoning classification, a conditional use permit is not available, and only a change of zone will enable the applicant to use the property for its proposed purpose.
2. The property is in the development district, adjoins existing commercial properties and is consistent with the character of the neighborhood as it is developing. There will be no adverse impact on neighborhood property values or traffic in the area.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/Z
No. 1392)

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 22,139 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1392) filed on behalf of Thomas Morris.

The Planning and Zoning Commission held a Public Hearing on this application on December 9, 1999, at which time they recommended approval of the application.

There were no public comments in support of the application.

Comments in opposition to the application focused on concerns relating to the proposed liquor store on the adjoining property; the addition of two new commercial businesses in the area; adverse effects of commercial businesses on the character of the neighborhood; traffic; and the rezoning of the application to commercial which will allow any number of uses.

The Public Hearing was closed.

M 688 99
Adopt
Proposed
Ordinance

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO

M 688 99
(continued)

A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 22,139 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1392) filed on behalf of Thomas Morris.

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

M 689 99
Waive
Application
Fee

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to allow Thomas Morris to apply for a Conditional Use without paying the application fees associated with making application.

Motion Denied: 3 Nay, 2 Yea.

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

Public
Hearing
(C/U
No. 1313)

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 ELECTRICAL CONTRACTORS OFFICE AND TO AMEND THE STIPULATIONS ON CONDITIONAL USE NO. 1280 (ORDINANCE NO. 1307) RELATING TO PARKING AND SIGNAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,250 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1313) filed on behalf of Apple Electric, Inc.

The Planning & Zoning Commission held a Public Hearing on this application on December 9, 1999, at which time they recommended approval of the application, with conditions.

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

M 690 99
Adopt
Ordinance
No. 1356
(C/U
No. 1313)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1356 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL CONTRACTORS OFFICE AND TO AMEND THE STIPULATIONS ON CONDITIONAL USE NO. 1280 (ORDINANCE NO. 1307) RELATING TO PARKING AND SIGNAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES

M 690 99
(continued)

AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,250 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1313) filed on behalf of Apple Electric, Inc., with the following conditions:

1. The maximum number of parking spaces shall be nine (9) 10' by 20' spaces. The spaces shall be placed from the front of the garage back toward Route 24. Screening shall be provided along the property line adjoining the parking area and shall consist of a 6' high solid fence, wall, or hedge.
2. The driveway width shall be 25'. A turn-around shall be provided on the west side of the driveway.
3. There shall be no amendment to the restrictions placed on the sign approved with Conditional Use No. 1280.
4. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Abstention.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Abstained;
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 all this conditional use seeks is two minor amendments to the conditions attached to Conditional Use No. 1280. The amendments will have no adverse impact of any sort.
2. The findings of fact and recommendations of the Planning & Zoning Commission as well as the entire record of Conditional Use No. 1280 are incorporated herein.

Conflict
of Interest

Mr. Rogers did not participate in the Public Hearing on Conditional Use No. 1313 due to a possible conflict of interest.

Dukes/
Announce-
ment

Mr. Dukes announced that he would be leaving the meeting at 3:30 p.m., possibly prior to the conclusion of the Public Hearing on Conditional Use No. 1315. Mr. Dukes announced that he would listen to the taped proceedings of the portion of the Public Hearing that he would miss so that he could participate in the vote on the application at a later date.

Public
Hearing
(C/U
No. 1315)

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 BULK PROPANE STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.66 ACRES, MORE OR LESS" (Conditional Use No. 1315) filed on behalf of Chesapeake Utilities.

The Planning and Zoning Commission held a Public Hearing on this application on December 9, 1999, at which time action was deferred.

Public comments were heard in support of the application. Comments focused on the benefits of the proposal: that high voltage lines will be reduced; that the number of propane delivery trucks on the road will be lessened; that propane will be piped; that no dislodging of pipes during extreme weather will occur; that the use of small tanks at homes will be eliminated; that once a customer base has been established, a natural gas line can be connected and the tank facility eliminated; that the service should lower prices; and that the proposed design is safe and meets and exceeds regulations. Representatives of Chesapeake Utilities addressed safety concerns expressed by people in the area; it was noted that the industry is highly regulated for public safety protection.

Public comments were heard in opposition to the application. Comments focused on the following concerns: that the use will severely affect the health, safety and welfare of the citizens in the area; that presently crackling can be heard from the high tension power lines in the area; that there are additional concerns when such facilities are adjacent to residential developments; that children should not be raised in such close proximity to such a hazardous use; that an environmental impact study should be performed; that a traffic impact study should be performed and should include the impact of tractor-trailers hauling propane; that the use should be located in an industrial area; that the use is not compatible with the area; that there will be an impact on property values; and that the residents are concerned that a tank or tanks may explode. It was noted that 37 people were present in opposition to the application.

The Council reviewed a video tape submitted by the opposition titled "BLEVE – Response and Prevention".

The Public Hearing was closed. It was the consensus of Council to close the public record. The application will be placed back on the agenda on January 18, 2000, for a review of area maps and aerial photography.

M 691 99
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$100.00 from Mr. Phillips' Councilmanic Account to People to People Student Ambassador Program for April Williams to join the Delaware delegation for the People to People Student Ambassador Program.

Motion Adopted: 4 Yea, 1 Absent.

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

M 692 99
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$300.00 from Mr. Jones' Councilmanic Account to the Union United Methodist Church for expenses incurred by sponsoring the Community Thanksgiving Dinner held on November 25, 1999.

Motion Adopted: 3 Yea, 2 Absent.

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

M 693 99
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$200.00 from Mr. Jones' Councilmanic Account to the Sussex Central High School Chorus for new robes.

Motion Adopted: 3 Yea, 2 Absent.

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

M 694 99
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to adjourn at 5:38 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council