



## Sussex County Council

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***FEB. 1, 2005***

### **Call to Order**

The regular meeting of the Sussex County Council was held Tuesday, February 1, 2005, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

**Finley B. Jones, Jr.**  
**Lynn J. Rogers**  
**Dale R. Dukes**  
**George B. Cole**  
**Vance C. Phillips**  
**Robert L. Stickels**  
**David B. Baker**  
**Alix K. Robinson**

**President**  
**Vice President**  
**Member**  
**Member**  
**Member**  
**County Administrator**  
**Finance Director**  
**Assistant County Attorney**

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

### **M 092 05 Amend & Approve Agenda**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by deleting for one next week the item entitled, "Award Sussex County Project No. 04-10 OCE' TCS 400 Auto Cad Plotting System" and to approve the Agenda, as amended.

**Motion Adopted: 5 Yea.**

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

### **M 093 05 Defer Approval of Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to defer approval of the minutes of the January 25, 2005 Council meeting for one week to allow additional clarification as to his vote to approve the Appeal of Springfield Enterprise, Subdivision No. 96-1.

**Motion Adopted: 5 Yea.**

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

### **Corre- spondence**

Ms. Robinson read the following correspondence:

**KATHLEEN KEUSKI, PROGRAM DIRECTOR, MEALS ON WHEELS OF**

**LEWES & REHOBOTH, INC., LEWES, DE**

**RE: Letter of thanks for Council's recent grant.**

**JIM PURCELL AND DANIEL VALLE, AMERICAN RED CROSS OF THE DELMARVA PENINSULA**

**(Con't.)**

**RE: Letter of thanks for Council's recent \$10,000 contribution to be used toward the Tsunami Relief Effort.**

**JIM PURCELL, AMERICAN RED CROSS OF THE DELMARVA PENINSULA**

**RE: Letter of thanks to Mr. Jones for Council's recent contribution toward the Tsunami Relief Effort, as well as a request for Council's financial support of their local chapter due to a recent \$130,000 cut in funding by United Way.**

**M 094 05**

**Adopt  
Proclamation  
(National  
Parent  
Leadership  
Month in  
Delaware**

**A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt the Proclamation entitled "PROCLAIMING THE MONTH OF FEBRUARY AS 'NATIONAL PARENT LEADERSHIP MONTH IN DELAWARE'"**

**Motion Adopted: 5 Yea.**

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

**Moderately  
Priced  
Housing  
Program  
Initiative**

**Mr. Stickels reviewed with Council information contained in the Moderately Priced Housing Program Initiative Report. Council authorized the establishment of the Housing Initiative on October 12, 2004, for the purpose of addressing the need for moderately priced housing in Sussex County. As a result of meetings held by the Housing Committee on November 10 and December 8, 2004, proposed program requirements and standards, as well as developer incentives, were developed and are included in the report. These guidelines and requirements would be used as a basis in drafting an Ordinance for Council's consideration. After the introduction of a Proposed Ordinance, a Public Hearing would be scheduled. Mr. Stickels noted that the information obtained thru the meetings of the Committee was used as the foundation of his report. The Report also includes the minutes for the Committee meetings, as well as housing and income statistics for the County and overall State.**

**In the Committee's fact-finding efforts, developers also met and their findings and recommendations are included in the report as well. Mr. Stickels noted that several reasons contribute to the need for moderately priced housing in Sussex County; i.e. an inflated housing market, a large influx of retirees seeking higher-priced housing; and an inflated rental market as a result of multi-families living together in single-family homes in order to share the cost of rent.**

**Mr. Stickels stated that he had reviewed similar housing programs in Montgomery County, Maryland, and Aspen, Colorado. Council requested Mr.**

Stickels to obtain copies of a similar program now in place in New Castle County.

(Con't.)

Comments and questions presented by Council included: Mr. Cole stated his concern for the need of affordable housing and questioned whether those needs would be addressed by a moderately priced housing program. He also questioned who would determine the definition of moderately priced housing. Mr. Rogers stated that he would like the opportunity to further review the information presented by Mr. Stickels and time to gather additional information during the upcoming NACo Legislative Conference. In attending one of the Housing Committee meetings, Mr. Phillips noted that he felt Mr. Stickels' report encapsulated the majority of the recommendations and opinions presented. He felt Council should move forward now that a framework has been established, which could include a possible pilot project. Mr. Jones commented that he felt there was a need for a countywide program, not one that would only target specific areas. He also stated that he felt Council should cautiously move forward.

Council received public comments. Esthelda Parker Selby, Milton resident and retired educator, reported that she had attended the recent Sussex County Today and Tomorrow Conference, and is a member of a newly formed Housing Committee. She stated her interest in being a part of the County's Committee as well. Ms. Selby noted the countywide need for affordable housing that would target the County's young professionals.

Judith Star, realtor and resident, suggested that any moderately priced housing program the County may develop include all types of housing, i.e. attached townhouses, and not be limited to single-family homes.

Dan Kramer, Greenwood resident, stated that taxpayer money should not be used to subsidize any type of housing program.

Lit Dryden, realtor and resident, applauded Council for their effort and agreed with the need for moderately priced housing. He stated several concerns that need to be considered, which included: how to preserve the benefit of a reduced price house at the time the homeowner may decide to sell their property; he noted that market factors will affect the value of property that can be afforded, as well as the purchasing capability of those who meet the income guidelines; he warned of manipulations, such as buy downs, and the need for a pricing limitation.

Mr. Stickels stated that no additional meetings of the Housing Committee are scheduled at this point. It was the consensus of the Council that another Public Workshop be held for the purpose of gathering additional information and addressing questions and concerns to assist Council in their decision regarding a Moderately Priced Housing Program for the County. Due to upcoming time constraints placed on Mr. Stickels in preparing the 2006 Budget and his recent

appointment to the Governor's Committee on Stormwater Management, Council requested that Mr. Lecates schedule and lead upcoming meetings and Public Workshops of the Housing Committee. It was also requested that the report be posted on the County's website for public review.

Adminis-  
trator's  
Report  
(Con't.)

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

1. Historical Display

The Seaford Historical Society will be having a display in the atrium for a period of three months. This display is meant to highlight the historic treasures of Seaford, promote its tourism, and encourage our citizens to appreciate Seaford's unique contribution to the history of Sussex County. Anyone wishing to obtain more information should contact Brian Page, Historic Preservation Planner for Sussex County.

Public  
Hearing/  
Amend  
Chapter 115  
(Flood  
Prone  
Districts)

A Public Hearing was held on the Proposed Ordinance entitled, "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE I AND ARTICLE XXV RELATING TO FLOOD PRONE DISTRICTS".

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on January 20, 2005, at which time they recommended that the Ordinance Amendments be adopted as presented. Mr. Lank read a summary of the Commission's Public Hearing. The summary was admitted as part of the County Council's record.

Mr. Lank advised Council that the proposed amendments to Section 1, Section 2 and Section 5 have been required by FEMA; that the proposed amendments to Section 3 and Section 4 have been recommended by staff; and that the proposed amendments to Section 6 have been suggested by the National Flood Insurance Program Coordinator through DNREC, but is not mandated by FEMA. Mr. Lank presented Council with a copy of the Proposed Ordinance, and reviewed the recommended amendments.

Public comments were received by Dan Kramer, Greenwood resident, who inquired if his property was within a Flood Plain. Mr. Lank stated that maps are available for review in the Planning and Zoning Office.

There being no additional comments, the Public Hearing was closed.

M 095 05  
Adopt  
Ordinance  
No. 1748/  
Flood Prone  
Districts

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1748 entitled, "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE I AND ARTICLE XXV RELATING TO FLOOD PRONE DISTRICTS".

**Motion Adopted: 5 Yea.**

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

**New  
Checking  
Account  
(Con't.)**

**Mr. David Baker, Finance Director, reviewed with Council information relating to the opening of a new checking account entitled, "Sussex County Council – Fenwick Sewer, Route 54 Project". Mr. Baker noted that the proposed checking account would be used to receive loans and pay bills for this Fenwick Sewer Project. Information was gathered as to services offered and fees charged by Delaware National Bank, Wilmington Trust Company, Mercantile Peninsula Bank, and Citizens Bank. It is Mr. Baker's recommendation that the new checking be opened at Delaware National Bank, with a variable interest rate of 2.45 percent, no bank fees, and the account will be collateralized.**

**M 096 05  
Adopt  
Resolution  
No. R 010 05/  
New Check-  
ing Account  
(Fenwick  
Sewer,  
Route 54  
Project)**

**A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt Resolution No. R 010 05 entitled, " AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE NATIONAL BANK BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".**

**Motion Adopted: 3 Yea; 1 Not Voting; 1 Absent.**

**Vote by Roll Call: Mr. Cole, Absent; Mr. Phillips, Yea;  
Mr. Dukes, Not Voting; Mr. Rogers, Yea;  
Mr. Jones, Yea**

**Old Business  
(C/Z No.  
1565)  
Allen  
Family  
Foods**

**The County Council considered the Proposed Ordinance entitled, "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL AND MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.60 ACRES, MORE OR LESS" (Change of Zone No. 1565) filed on behalf of Allen Family Foods, Inc.**

**The Planning and Zoning Commission held a Public Hearing on this application on November 18, 2004, at which time they deferred action. The Commission discussed this application again on January 6, 2005, under Old Business, at which time they recommended that the application be denied due to the lack of affirmative votes.**

Mr. Lank reminded Council that the original application was amended by the applicant at the time of the Public Hearing to reflect "1.60 ACRES", which includes Parcels 83 and 84, but not Parcels 89 and 90. Mr. Lank, Director of Planning and Zoning, reviewed a summary of the Commission's discussion of this application on November 18, 2004 and on January 6, 2005.

The County Council held a Public Hearing on this application on December 7, 2004, at which time they deferred action. Council reconsidered this application under "Old Business" at the January 25, 2005 Council meeting and again deferred action for one week to allow additional time to consider the application.

(Con't.)

**M 097 05**

**Adopt  
Ordinance  
No. 1749  
(C/Z No.  
1565)  
Allen  
Family  
Foods**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1749 entitled, "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL AND MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.60 ACRES, MORE OR LESS" (Change of Zone No. 1565) filed on behalf of Allen Family Foods, Inc., and to amend the size of the parcel to 1.60 acres.

**Motion Adopted: 3 Yea; 2 Nay.**

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

**Bay View &  
Sea Country  
Estates Sani-  
itary Sewer  
Districts**

Mr. Izzo, County Engineer, discussed a proposed contract amendment with Whitman, Requardt and Associates that would provide construction inspection and contract administration for work performed for the Bay View Estates and Sea Country Estates Sanitary Sewer District. Bay View Estates is a 240-lot subdivision in the west Fenwick area, with a portion of the subdivision located in Maryland. Sea Country Estates is a 50-lot subdivision.

**M 098 05**

**Authorize  
Contract  
Amendment  
No. 25/  
Whitman,  
Requardt &  
Associates  
(Bay View  
Estates &  
Sea Country  
Estates SSD)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the County Engineering Department, that the Sussex County Council authorize its President to execute an Amendment No. 25 to its contract with Whitman, Requardt and Associates, LLP, which references construction administration and inspection services for "Bay View Estates and Sea Country Estates Sanitary Sewer District".

**Motion Adopted: 5 Yea.**

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

**M 099 05  
Youth  
Activity/  
Coastal  
Magic All  
Stars  
Booster  
Club**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500 (\$250 from Mr. Rogers' and Mr. Jones' Youth Activity Accounts) to the Coastal Magic All Stars Booster Club to be used to offset expenses of a national cheerleading competition in Orlando, Florida.

**Motion Adopted: 5 Yea.**

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

**M 100 05  
Council-  
manic  
Grant/  
Sussex  
County  
Fire Chiefs'  
Association**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$800.00 (\$160 from each Councilmanic Account) to the Sussex County Fire Chief's Association to be used to offset expenses for the chief to attend the F.D.I.C. Conference in Indianapolis.

**Motion Adopted: 5 Yea.**

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

**M 101 05  
Council-  
manic  
Grant/  
Sussex  
County  
Animal  
Association**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$500 (\$100 from each Councilmanic Account) to the Sussex County Animal Association to be used to offset expenses of their Spay/Neuter Programs.

**Motion Adopted: 5 Yea.**

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

**M 102 05  
Recess**

At 11:36 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

**Reconvene**

At 1:30 p.m., Mr. Jones called the Council back into session.

**Public  
Hearing/  
(C/Z No.  
1562)  
John and  
Karen  
Fitzgerald**

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.11 ACRES, MORE OR LESS" (Change of Zone No. 1562) filed on behalf of John T. and Karen L. Fitzgerald.

The Planning and Zoning Commission held a Public Hearing on this

application on January 13, 2005, at which time they recommended that the application be approved.

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the County Council's record. Mr. Abbott provided Council with copies of the site plan.

The County Council found that Scott Fitzgerald, representative for the applicant, was present. The proposed use is for office space for the Fitzgerald Salvage Company.

(Con't.)

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

**M 103 05**  
**Adopt**  
**Ordinance**  
**No. 1750**  
**(C/Z No.**  
**1562)**  
**John T. &**  
**Karen L.**  
**Fitzgerald**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Ordinance No. 1750 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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.11 ACRES, MORE OR LESS" (Change of Zone No. 1562) filed on behalf of John T. and Karen L. Fitzgerald.

**Motion Adopted: 5 Yea.**

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

**Public**  
**Hearing**  
**(C/U No.**  
**1583)**  
**Tidewater**  
**Utilities**

A Public Hearing was held on the Proposed Ordinance entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR AN ELEVATED WATER STORAGE TANK WITH LOGO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 20,087 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1583) filed on behalf of Tidewater Utilities, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on January 13, 2005, at which time they recommended that the application be approved, with 8 conditions.

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the County Council's record. Mr. Abbott provided Council with copies of the site plan.



The County Council found that Gerald Esposito and Bruce Patrick from Tidewater Utilities, Inc., Ken Davis from Cabe Associates, as well as James Fuqua, the applicant's attorney, were present. Mr. Fuqua briefly reviewed the proposed application as well as the booklet presented by the applicant. Mr. Fuqua stated that the site was selected due to its optimal location in the Bay Farm residential planned community, and that the applicant is in agreement with all of the proposed conditions.

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

**M 104 05**  
**Adopt**  
**Ordinance**  
**No. 1751/**  
**C/U No.**  
**1583**  
**(Tidewater**  
**Utilities)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1751 entitled, "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR AN ELEVATED WATER STORAGE TANK WITH LOGO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 20,087 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1583) filed on behalf of Tidewater Utilities, Inc., with the following conditions:

1. The maximum capacity of the tower shall not exceed 500,000 gallons.
2. The maximum height of the tower shall not exceed 178 feet.
3. The lighting at the tower shall be limited to normal security lights and safety lights required by the Federal Aviation Administration on the tower.
4. The tower shall be painted white or a sky neutral color and lettering shall be limited to identification of the Water Company.
5. The water facilities shall be surrounded by a security fence at least eight (8) feet in height.
6. Structural design and operation of the water facility shall comply at a minimum with industry standards.
7. The applicant has offered to allow placement of antenna on the tower by government agencies at no charge and will reserve 50 percent of antenna space for such use.
8. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all applicable agency approvals.

**Motion Adopted: 5 Yea.**

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

**M 105 05**  
**Adjourn**

At 1:55 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Rogers, to adjourn. Motion Adopted by Voice Vote.

**Respectfully submitted,**

**Nancy J. Cordrey  
Assistant Clerk of the County Council**