



*Sussex County Council
Agendas & Minutes*

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 3, 2005

Call to Order The regular meeting of the Sussex County Council was held Tuesday, May 3, 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.	President
Lynn J. Rogers	Vice President
George B. Cole	Member
Dale R. Dukes	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
James D. Griffin	County Attorney

M 282 05 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to amend the Agenda by deleting (1) Approval of Minutes, (2) items listed under Michael Izzo, County Engineer, and (3) the grant request from the Town of Selbyville, 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

Correspondence Mr. Griffin read the following correspondence:

ALBERT AND JUDITH TANKARD.

RE: Letter in appreciation of renovations made to their home, which were made possible by the Community Development and Housing Department.

DELAWARE DUCKS UNLIMITED, GREENWING COMMITTEE.

RE: Letter in appreciation of grant funding.

PATRICIA G. ARCURI, ACTING REGIONAL DIRECTOR, U.S. DEPARTMENT OF HOMELAND SECURITY, REGION III, FEMA, PHILADELPHIA, PENNSYLVANIA.

RE: Letter advising that the Sussex County Multi-Jurisdictional All Hazard Mitigation Plan for the unincorporated areas of Sussex County, adopted on April 5, 2005, has been approved.

RICHARD T. FAULL, PRESIDENT, SUSSEX COUNTY HABITAT FOR HUMANITY, NASSAU, DELAWARE.

RE: Letter in appreciation of the Council's support and grant funding.

**First
State
RC&D
Council/
Emergency
Home
Repair
Project**

Christine L. Stillson and Gary Smith of the First State Resource Conservation and Development Council, Inc. (First State RC&D) were present and requested a donation in the amount of \$2,500 for their Emergency Home Repair Project.

Initiated in 1991 in Kent County and in 1992 in Sussex County, the RC&D Emergency Home Repair Project seeks to assist those homeowners most in need of immediate assistance because of health or safety hazard in their home. Mr. Smith noted that the existing CDBG Home Rehabilitation Programs cannot assist someone who calls in with an immediate need, such as no water, no heat, etc. The project assists homeowners with such repairs as: a missing or broken window, a missing or defective entrance door, holes in floors, a leaking roof, the need for a wheelchair ramp, etc. In order to keep the project cost-effective and to encourage homeowners to participate in needed repairs, volunteers are recruited to assist the homeowner to make repairs that do not require a licensed contractor.

Mr. Smith reported that, in the past five years, \$935,000 was spent on repairs to more than 700 homes in Sussex County. He further reported that the project receives grants from the Delaware State Housing Authority, Grant-in-Aid, foundations, banks and organizations. The Project has to turn qualified persons away each year because of a lack of adequate funding. Mr. Smith advised that their request for \$25,000 in funding would help defray the costs of construction, pay for materials, etc.

Mr. Smith was advised that the request of First State RC&D would be considered during the Fiscal 2006 Budget process.

Mr. Stickels presented information relating to a wastewater agreement between Sussex County and Peninsula at Long Neck, LLC.

**M 283 05
Execute
Agreement/
Peninsula
at Long
Neck, LLC**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 397 that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Peninsula at Long Neck, LLC, for wastewater facilities to be constructed in Peninsula-Lakeside Village, located in the Long Neck Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

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

Administrator's Report (continued)

1. Council Meeting Schedule

A reminder that the next County Council meeting will be held on Tuesday, May 10, 2005, at 6:30 p.m. David Small, Deputy Secretary of the Department of Natural Resources and Environmental Control, will update Council on the potential transfer responsibilities of dog control.

2. FY 2006 Budget

The FY 2006 Budget will be presented to Council on Tuesday, May 17, 2005, at 10:00 a.m. A special press presentation will take place at 7:30 a.m. A Public Hearing on the budget will be held at 6:45 p.m. on Tuesday, June 14, 2005.

3. Sussex County Council Prayer Breakfast

A reminder that the 28th Annual Sussex County Council Prayer Breakfast will be held on Monday, May 16, 2005, at 7:00 a.m. at the CHEER Community Center on Sand Hill Road in Georgetown. This year's guests will be Paul and Susie Luchsinger of Psalms Ministries. Susie Luchsinger is the sister of Reba McEntire. Tickets are \$12.00 per person and are available in the County Council Office.

4. Student Government Day

The Sussex County Council will host County Government Day on Thursday, May 5, 2005, starting at 9:30 a.m. in the Council Chambers. Students who are in their junior year of high school will participate in a County Council meeting. The general public as well as the media is welcome to attend.

It should be noted that Mr. Vance Phillips is the only student that ever participated in the program to be elected to the County Council.

New Paramedic Equipment/ DEMA

Mr. Bob Stuart, Assistant Director of EMS, reported that five new pieces of apparatus were on display in front of the Administrative building:

Hazmed 1 – a Ford Excursion which has been outfitted with hazardous materials medical management and air monitoring equipment. The vehicle cost \$27,000 and the equipment carried in it cost in excess of

\$80,000.

Decon 2 – a Hackney-built rescue vehicle which was designed to tow the State’s decontamination trailer that Sussex County EMS already operates. The cost of this vehicle was \$157,000.

**New
Paramedic
Equipment
(continued)**

Medical Resource Unit – this is one of four trailers that are deployed throughout the State for mass casualty incidents. These trailers are equipped with large quantities of various medical supplies. The cost of the trailer and supplies was \$77,000.

Hazmat Support Trailer – designed to supplement the decontamination units during long term or very large events. The cost of this unit was \$88,000.

All Terrain Vehicle and Trailer – will be deployed to mass gatherings to supplement the Paramedic Bike Team. This unit will have the capability to transport patients where access for ambulances is limited. The All Terrain Vehicle is a John Deer 6 wheel “gator”. The cost of the ATV and trailer was \$21,000.

Mr. Stuart reported that the three vehicles and two trailers were acquired, with the assistance of the Delaware Emergency Management Agency, using funds from Department of Homeland Security grants. These funds became available after the 9/11 terrorist attacks when the Department authorized funds for all states for terrorism preparedness.

Mr. Stuart reported that the equipment will increase Sussex County EMS’ ability to respond to terrorist events and increase the Department’s effectiveness during day to day operations.

**Old
Business
(C/U
No. 1603)**

The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR USED CAR AND TRUCK SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 30,000 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1603) filed on behalf of John Gavrilenkowsky.

The Planning and Zoning Commission held a Public Hearing on this application on April 7, 2005 at which time they recommended that the application be denied due to: (1) concerns about traffic, especially during the summer and turning movement hazards by patrons in and out of the lot, (2) since an automotive sales dealership should be near a town center, (3) since the site is not appropriate for the use, and (4) since the use is not serving a need for the public good.

The County Council held a Public Hearing on this application on April 26, 2005 at which time they deferred action and directed Mr. Lank, Director of Planning and Zoning, to prepare possible conditions for the Council's consideration.

Mr. Lank submitted a list of nine possible conditions.

**M 284 05
Adopt
Ordinance
No. 1776
(C/U
No. 1603)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1776 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR USED CAR AND TRUCK SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 30,000 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1603) filed on behalf of John Gavrilenkowsky, with the following conditions:

1. The Applicant shall receive all appropriate State and local regulatory permits and/or approvals to sell automotive vehicles.
2. The Applicant shall display no more than ten (10) automotive vehicles in the area set aside for display purposes.
3. One lighted wall sign, not exceeding 32 square feet, may be permitted on the building per the request of the Applicant. No on-premise ground signs shall be permitted.
4. The Applicant shall obtain a commercial entrance permit and make such improvements as required by DelDOT.
5. No mechanical or auto bodywork shall be performed on the premises. Minor washing and cleaning of vehicles may be permitted.
6. The automotive vehicle display area shall be set back a minimum of 25 feet from the front property line, the right-of-way of Route 16, and a minimum of 15 feet from the side property line, and shall be subject to site plan review.
7. No parking shall be permitted along the right-of-way of Route 16. No parking signs shall be erected along Route 16 if permitted by DelDOT.
8. Business hours shall be limited to 9:00 a.m. to 5:00 p.m. Monday through Friday and 9:00 a.m. to 1:00 p.m. Saturday. There shall be no Sunday business hours.
9. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

Motion Adopted: 4 Yea, 1 Nay

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

Requests Mr. Stickels presented grant requests for the Council's consideration.

M 285 05 Council- manic Grant	<p>A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$200.00 (\$100.00 each from Mr. Dukes' and Mr. Phillips' Councilmanic Accounts) to the Laurel Middle School for Dylan Windsor to attend the Junior National Youth Leaders Conference.</p> <p>Motion Adopted: 5 Yea.</p>
M 285 05 (continued)	<p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
M 286 05 Council- manic Grant	<p>A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$1,000.00 (\$200.00 from each Councilmanic Account) to the American Cancer Society for sponsorship of the Relay for Life 2005.</p> <p>Motion Adopted: 4 Yea, 1 Abstention.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Abstained</p>
M 287 05 Council- manic Grant	<p>A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00 (\$100.00 from each Councilmanic Account) to the Delaware Police Chiefs' Council, Inc. for the Staff Development Seminar.</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
M 288 05 Council- manic Grant	<p>A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$380.00 (\$76.00 from each Councilmanic Account) to the Sussex Tech Educational Foundation for the Annual Raven Open Golf Tournament and Dinner Auction (fundraiser for Sussex Tech Raven Athletics).</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Introduction of Proposed Ordinance	<p>Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX</p>

COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS” (Conditional Use No. 1630) filed on behalf of Philip L. Trayer. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (120 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 11.86 ACRES, MORE OR LESS” (Conditional Use No. 1631) filed on behalf of Design Consultants Group, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance (continued) 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 MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY (AS AN ADDITION TO CHANGE OF ZONE NO. 1475 FOR THE PENINSULA) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.26 ACRES, MORE OR LESS” (Change of Zone No. 1583) filed on behalf of Peninsula at Long Neck, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

Request for Information Mr. Dukes requested that information relating to change orders be placed in the Council’s packets prior to the meeting when the change order requests are heard.

M 289 05 Recess At 10:48 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Jones called the Council back into session at 1:35 p.m.

Withdrawal of Change of Zone Application Mr. Lank, Director of Planning and Zoning, reported that Richard Wyatt, the applicant for Change of Zone No. 1574, which was scheduled for Public Hearing on this date, withdrew his application at the Public Hearing before the Planning and Zoning Commission on April 14, 2005 due to the fact that DelDOT’s comments stated that he would be unable to get an entrance permit.

M 290 05 Approve Withdrawal of C/Z No. 1574 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the withdrawal of Change of Zone No. 1574, the application of Richard Wyatt.

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/U No. 1606) 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 RETAIL SALES AND A MULTI-FAMILY DWELLING STRUCTURE (4 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.58 ACRES, MORE OR LESS” (Conditional Use No. 1606) filed on behalf of William F. Massey, Jr., Kevin Rogers, and James Broadhurst.

Public Hearing (C/U No. 1606) (continued) The Planning and Zoning Commission held a Public Hearing on this application on April 14, 2005 at which time they recommended that the application be denied.

(See the minutes of the Planning and Zoning Commission dated April 14, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and their recommendation. The summary was admitted as part of the County Council’s record.

Mr. Lank, Director of Planning and Zoning, noted that no one was present on behalf of the application.

Mr. Lank made a phone call to Mr. Massey. Mr. Massey stated he was unaware that he had to be at the meeting and that he would be unable to attend due to a prior commitment. Mr. Lank stated that he informed Mr. Massey that by not being present, the application would be denied due to the lack of a record.

The Public Hearing was closed.

M 291 05 Adopt Proposed Ordinance (C/U No. 1606) DENIED A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RETAIL SALES AND A MULTI-FAMILY DWELLING STRUCTURE (4 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.58 ACRES, MORE OR LESS” (Conditional Use No. 1606) filed on behalf of William F. Massey, Jr., Kevin Rogers, and James Broadhurst.

Motion Denied: 5 Nay.

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

Mr. Jones, Nay

Reason for Denial The County Council denied this application for the lack of a record since no one appeared on behalf of the application.

M 292 05 Adjourn A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to adjourn at 1:46 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the County Council