

Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 18, 2005

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, October 18, 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 562 05 Approve Agenda A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to amend the Agenda by deleting "Discussion and Introduction of a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE IV §62-15 RELATING TO SHERIFF FEES" and "Introduction of Proposed Zoning Ordinances", and to approve the Agenda, as amended.

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

M 563 05 Approve Minutes A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of September 27, 2005.

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

Corre- Mr. Griffin read the following correspondence:

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BOYS & GIRLS CLUB OF DELAWARE, WILMINGTON, DELAWARE. RE: Letter in appreciation of the donation in support of the Oak Orchard Boys & Girls Club.

SUSSEX CENTRAL SOCCER BOOSTERS, LAUREL, DELAWARE.

RE: Letter in appreciation of donation.

(continued) WOODLAND FERRY ASSOCIATION, SEAFORD, DELAWARE.

RE: Letter in appreciation of donation.

Mr. Phillips joined the meeting.

Sussex Conservation District Funding Representatives from the Sussex Conservation District were in attendance to accept a check in the amount of \$175,000. Mr. Vanderwende, Chairman of the Board of Supervisors, and Debbie Absher, District Coordinator, were among those in attendance. Mr. Stickels reported that, under State Law, the County Council is required to match a \$75,000 annual State grant; in addition to that, in 2004, the Bond Committee recommended and the General Assembly and the Governor approved an additional \$100,000 to be matched by the County for tax ditch funding. In June 2005, during the Public Hearing on the FY 2006 Budget, the County Council approved the matching funds from the County's General Fund. In response to questions, Ms. Absher reported that there are 2,000 miles of tax ditches in the State and that 1,200 miles are within Sussex County. Mr. Stickels noted that he will continue to lobby on behalf of the Sussex Conservation District for a change in the State's funding formula.

West Side New Beginnings Grant Request Mr. Stickels presented a grant request from West Side New Beginnings, Inc. for their Youth Program and for community improvements. Ms. Brenda Kelley, Program Director, was present to discuss the program, which seeks to provide activities to enrich and empower the youth in West Rehoboth, one of the poorest communities in Delaware. The program includes afterschool mentoring that stresses reading and writing skills; summer educational and recreational sessions, field trips, and community clean-up drives. In addition, well-balanced meals are provided. Ms. Kelly reported that the program is getting results; students are earning better grades and making the honor roll. Ms. Kelly told the Council that the people of West Rehoboth are doing everything they can to keep their community and to overcome the drugs, crime and blight that cripple the community, and that West Rehoboth needs street lights and trash pick-up services to ensure the safety of the residents.

Mr. Stickels noted that the County Council recently granted \$28,000 to the West Rehoboth Land Trust to help with the acquisition of land for housing.

Mr. Stickels also noted that West Side New Beginnings, Inc. has been advised that the \$50,000 grant, if approved, would not be an annual grant, but a one-time grant. He further noted that the funding would be made

available through the FY 2005 Budget, in which \$100,000 was awarded to the Delaware Community Foundation.

M 564 05 Funding to West Side New Beginning A Motion was made by Mr. Cole, seconded by Mr. Rogers, to award \$50,000 to West Side New Beginnings, Inc. through the Delaware Community Foundation.

Beginnings M 564 05

Motion Adopted: 5 Yea.

M 564 05 Vote by Roll Call: (continued)

Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

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

1. EMS Director in Alabama for Disaster Seminar this Month

Sussex County Emergency Medical Services Director Glenn Luedtke will take part in a four-day seminar in Mobile, Alabama, later this month that will focus on the administrative, behind-the-scenes issues that often crop up during disasters. The "Advanced Regional Response Training Seminar" will focus on a multitude of issues, including mutual aid compacts, sharing of resources, the financial and legal accountability in disasters, and more. Above all, it's a chance to get some insight into the lessons learned from the Hurricane Katrina response. The conference will be held October 25 through October 28 and is sponsored by the University of South Alabama's Center for Strategic Health Innovation. I am confident that the knowledge Glenn will acquire at this seminar will only serve to improve Sussex County's preparedness for future storms or disasters here.

2. <u>Sussex County Historical Preservation Officer Tapped for State Commission</u>

It is my privilege to announce that Sussex County's Historical Preservation Officer, R. Brian Page, has been named a member of the state's Council on Archives. The Council is a 12-person, appointed panel that advises the governor, members of the General Assembly, and the Public Archives on issues concerning the creation, management, preservation, and use of historical records. Governor Ruth Ann Minner appointed Brian to the voluntary position on August 25, 2005. His term runs through that date in 2008. Brian, at 32, is one of the youngest members to ever serve on the panel, which was created as the Delaware Historical Records Advisory Board in the 1970's. I congratulate Brian on this accomplishment.

Drug Subsidy Mr. Baker discussed a Business Associate Agreement between Sussex County and Part D Advisors, Inc., which will enable the County to receive a

Program

subsidy from the Medicare Retiree Drug Subsidy (RDS) program, a new Federal program for prescription drug costs for pensioners. Mr. Baker explained that the Agreement was approved and executed prior to it being placed on the agenda, since almost immediately after it was presented to the County, it had to be acted on. The program, which begins on January 1, 2006, provides a subsidy for employers who provide their pensioners with a comparable or better drug benefit plan than Medicare offers. The subsidy amount would be 28 percent of eligible pensioner drug claim costs paid by the County, between \$250.00 and \$5,000 per year per individual pensioner. The subsidy is estimated to total approximately \$30,000 - \$36,000 annually. Mr. Baker noted that this would provide some assistance to the County for health care costs. Mr. Baker reported that, in order to take advantage of this subsidy, Dave Smith of Integra recommended that the County retain the services of Part D Advisors, Inc. to assist with the County's participation in the RDS program. This company is also endorsed by Pharmacare, which is the County's prescription drug plan provider. In accordance with the Agreement, Part D Advisors, Inc. will charge a \$10,000 set up fee and 30 percent of subsidies received. The term of the Agreement is two years.

Drug

Subsidy

Program (continued)

Paramedic Station 106 Lease Renewal

Mr. Luedtke, Director of Emergency Medical Services, requested the Council's approval to renew a Lease Agreement with Mid Sussex Rescue Squad, Inc. for Paramedic Station 106 on Indian Mission Road in Long Neck. The lease would commence on November 1, 2005 and continue for a period of one (1) year until October 31, 2006; the monthly rental amount would be \$955.00.

M 565 05 Approve Lease Agreement/ **Paramedic**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, that the Sussex County Council approves the Lease Agreement between Mid Sussex Rescue Squad, Inc. and Sussex County for the use of a portion of their building as described therein by Sussex County EMS as Paramedic Station 106.

Station 106/Mid**Motion Adopted:** 5 Yea.

Sussex **Vote by Roll Call:** Mr. Phillips, Yea; Mr. Cole, Yea; Rescue

Mr. Dukes, Yea; Mr. Rogers, Yea;

Squad Mr. Jones, Yea

Change **Order**

Mr. Hickin, Project Engineer, presented the Balancing Change Order in the credit amount of \$87,252.53 for the Corporate Hangar Taxilane Project.

M 566 05 **Approve** Change Order/ **Corporate** Hangar **Taxilane Project**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Engineering Consultants, Consultants, Inc., and the County Engineering Department, that the Balancing Change Order (No. 4) for Sussex County Project No. 04-11 "Corporate Hangar Taxilane" with JJID, Inc. be approved in the credit amount of \$87,252.53, which decreases the final contract total to \$640,258.41 and extends the contract time by 149 days.

Motion Adopted: 5 Yea.

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

Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

Oak Orchard SSD/ Contract D/ Change Order Mr. Izzo, County Engineer, presented Change Order No. 1 for Contract D for the Oak Orchard Sanitary Sewer District. Contract D, with Metra Industries of New Jersey, is for the installation of the collection and conveyance system in the Oak Orchard area. Mr. Izzo reported that conditions in the area in front of the fire hall on Oak Orchard Road have caused delays and additional costs. In that area, there is a 1,500 foot section where sewer line is being installed at a depth of 15 feet. Mr. Izzo explained that, when the design was originally performed, the utility location services indicated that there was one phone line and one water line; however, during construction, it was determined that the phone line was in a different location and also, there was an additional phone line. This resulted in delays and the Engineering Department determined that the best way for the problem to be addressed would be for the contractor to work over-time; otherwise, the contractor would have to open and close the trench each day to work. Mr. Izzo reported that over a two month period and a total of 21 work days, the contractor incurred 66 overtime hours.

Mr. Izzo reported that, initially, the contractor requested a change order in the amount of \$125,000. County personnel worked with the contractor and audited the contractor's books (equipment costs, etc.) and determined that the extra cost incurred by the contractor is closer to \$73,900. Mr. Izzo noted that there was a long course of negotiation and research to determine an amount and reach an agreement with the contractor.

Mr. Izzo recommended that the change order be processed in the amount of \$73,905.41.

M 567 05 Approve Change Order/ Contract D/ Oak Orchard SSD A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants, CABE Associates, Inc., for Sussex County Project No. 99-19D, Oak Orchard Sanitary Sewer District Collection and Conveyance, that Change Order No. 1 be approved in the amount of \$73,905.41, which increases the contract total to \$2,722,203.20.

Motion Adopted: 5 Yea.

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

Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

Requests

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

M 568 05 Community Investment Grant A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$5,000 from Mr. Jones' Community Investment Grant Account to Kent-Sussex Industries, Inc. for their transportation program.

Motion Adopted: 5 Yea.

M 568 05 (continued

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

Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

M 569 05 Councilmanic Grant A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$500.00 from Mr. Rogers' Councilmanic Grant Account to the Milton Seniors for their 25th Anniversary Celebration.

Motion Adopted: 5 Yea.

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

Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

M 570 05 Youth Activity Grant A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to the Sussex Community Swim Team for expenses.

Motion Adopted: 5 Yea.

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

Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

M 571 05 Youth Activity Grant A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$250.00 from Mr. Phillips' Youth Activity Grant Account to the Starlites Baton & Colorguard Teams in support of a Twirl-a-thon to benefit the victims of Hurricane Katrina.

Motion Adopted: 5 Yea.

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

Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

M 572 05 Councilmanic Grant A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$300.00 (\$60.00 from each Councilmanic Account) to the Georgetown Volunteer Ambulance Service for their annual fundraiser/benefit.

Motion Adopted: 5 Yea.

Motion Adopted:

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

Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

M 573 05

Grant

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to Sussex

Central High School for the Tournament of Bands Competition.

M 573 05

Councilmanic

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

5 Yea.

Grant Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

M 574 05 Recess

(continued)

At 10:54 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 1:39 p.m.

Public Hearing (C/U No. 1621) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 40,702 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1621) filed on behalf of Gregory and Patricia White.

The Planning and Zoning Commission held a Public Hearing on this application on September 22, 2005 at which time they deferred action. On October 13, 2005, the Commission recommended that the application be denied.

(See the minutes of the Planning and Zoning Commission dated September 22 and October 13, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing and recommendation of denial. The summary was admitted as part of the County Council's record.

Mr. Abbott reported that a letter dated October 5, 2005 from St. George's Church Trustees was received. In the letter, which was addressed to the Planning and Zoning Commission, they stated that the Church is not opposed to the White's application; however, they are requesting that a six-foot fence be placed in addition to the landscape buffer area at Mr. White's expense.

The Council found that Tom Ford of Land Design, Inc. and Greg White, the

Public Hearing (C/U No. 1621) (continued) applicant, were present. They stated that the application is for four (4) single-family detached units in a cluster; that the owner and developer of the project is Greg White; that the site is located in the Environmentally Sensitive Development Area and in the Level 3 Area on the State Strategies for Spending map, which calls for phased development; that the site is not agricultural; that the site has been used residentially for 40-60 years; that they are proposing a community sewer system; that Atlantic Resource Management has performed a soils evaluation and determined that the soils are suitable for septic; that DelDOT did not require a Traffic Impact Study and they support that this is not a significant addition to Route 26; that there are no federal or state wetlands on the site; that three parking spaces are proposed for each unit; that each unit is proposed to have a 2-car garage; that the town area is changing and expanding out to this area; that they believe the Commission's recommendation of denial is based on a misunderstanding; that this application is in keeping with the intent and purpose of MR zoning which allows 4 units to the acre (density); that they propose detached homes to assimilate into the existing character of the area; that the detached multi-family concept is not setting a precedent and it has been approved many times before; that there is no sewer or water currently available to the site; that Artesian and Tidewater are currently pursuing franchise rights to serve the area; that the project could be connected to County sewer when it is made available; and that the developer is not adverse to a condition that would require him to connect to public facilities when they become available.

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

Mr. Stickels stated that he drafted ten proposed conditions for the Council's consideration:

- There shall be four single-family detached units.
- There shall be three parking spaces per unit; each unit shall have a two car garage.
- All units shall be connected to central water and sewer when it becomes available.
- A Homeowner's Association shall maintain common elements.
- Existing interest in all property lines will be retained.
- Additional landscaping shall be provided along the south side.
- Stormwater management shall be provided in the front yard as approved by the Soil Conservation District.
- A fence shall be provided as requested by the Church.
- All State approvals shall be obtained prior to final site plan approval.
- The site plan shall be reviewed and approved by the Planning and Zoning Commission.

Mr. Stickels advised the applicant that there may be a problem with the entrance and that they should obtain information from DelDOT.

M 575 05 Defer Action (C/U No. 1621) A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Conditional Use No. 1621, an application of Gregory and Patricia White, to allow for the submission of proposed conditions, in writing, for the Council's consideration.

Motion Adopted: 5 Yea.

M 575 05 (continued)

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

Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

Public Hearing (C/U No. 1634) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO A GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC AUCTION BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS" (Conditional Use No. 1634) filed on behalf of Thomas and Sylvia Trice.

The Planning and Zoning Commission held a Public Hearing on this application on September 22, 2005 at which time they deferred action. On October 13, 2005, the Commission recommended that the application be approved with conditions.

(See the minutes of the Planning and Zoning Commission dated September 22 and October 13, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing and recommendation of approval. The summary was admitted as part of the County Council's record.

The Council found that Sylvia and Thomas Trice were present. They stated that their application is for a public auction facility; that they have conducted auctions for five years in the Denton area; that the auctions would be conducted within an existing building located on the premises which has been used for an auction facility in past years; that they propose to renovate the building; that they plan to conduct several auctions per month; that they propose to install security lighting and an alarm system; and that there will be no outside storage of personal property when the site is not being used for an auction.

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

M 576 05 Adopt Ordinance No. 1796 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1796 entitled "AN ORDINANCE TO A GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC AUCTION BUILDING TO

(C/U No. 1634)

M 576 05

(continued)

BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS" (Conditional Use No. 1634) filed on behalf of Thomas and Sylvia Trice, with the following conditions:

- 1. No trash shall be allowed to accumulate on the property.
- 2. The auction shall be limited to items such as estate items, furniture, antiques and household items. No automobiles shall be sold unless they are part of an estate sale.
- 3. Security lighting shall be provided with downward screening on the lights. The location of any security lighting shall be shown on the final site plan.
- 4. The applicant shall comply with all of DelDOT's requirements, including entrance permits.
- 5. There shall be no outside storage on days when the site is not being used as an auction, except for vehicles to be included in estate sales, which shall be parked behind the auction building.
- 6. If required by DelDOT, signage shall be erected by the applicants indicating that parking by auction attendees along the right-of-way of Route 404 is prohibited.

Motion Adopted: 5 Yea.

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

Mr. Dukes, Yea; Mr. Rogers, Yea;

Mr. Jones, Yea

Conflict of Interest

Mr. Rogers announced that he would not be participating in the Public Hearing on Change of Zone No. 1580 and he excused himself from the meeting.

Public Hearing (C/Z No. 1580) 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 35,093 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1580) filed on behalf of Ronald Wm. Wright, Jr.

The Planning and Zoning Commission held a Public Hearing on this application on September 22, 2005 at which time they deferred action. On October 13, 2005, the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated September 22 and October 13, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission's Public Hearing and recommendation of approval. The summary was admitted as part of the County Council's record.

Mr. Griffin read a letter from the Town of Milton which stated that the Town offers no opposition to the application.

Public Hearing (C/Z No. 1580) (continued) The Council found that Ronald and Jill Wright were present on behalf of the application. They stated that they operate a lawn care and landscaping business from the site; that the business has grown fast; that they would like to diversify the business to better serve their customers; that they would like to sell seed, mulch and stone; and that the majority of their equipment is stored in the existing building.

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

M 577 05 Adopt Ordinance No. 1797 (C/Z No. 1580) A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordnance No. 1797 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 35,093 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1580) filed on behalf of Ronald Wm. Wright, Jr.

Motion Adopted: 4 Yea, 1 Absent.

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

Mr. Dukes, Yea; Mr. Rogers, Absent;

Mr. Jones, Yea

M 578 05 Adjourn A Motion was made by Mr. Cole, seconded by Mr. Dukes, to adjourn at 2:37 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith Clerk of the Council