



## *Sussex County Council Agendas & Minutes*

### **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 14, 2004**

#### **Call to Order**

The regular meeting of the Sussex County Council was held Tuesday, December 14, 2004, at 6:30 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Dale R. Dukes</b>	<b>President</b>
<b>Finley B. Jones, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Member</b>
<b>Lynn J. Rogers</b>	<b>Member</b>
<b>Vance Phillips</b>	<b>Member</b>
<b>Robert L. Stickels</b>	<b>County Administrator</b>
<b>David Baker</b>	<b>Finance Director</b>
<b>James D. Griffin</b>	<b>County Attorney</b>

Mr. Dukes announced that Mr. Cole and Mr. Jones would be arriving late due to previous obligations.

#### **M 720 04 Amend and Approve Agenda**

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

**David Baker, Finance Director**

- 1. Bank Account Recommendations**
  - A. Sussex County Council, HPG 04**
  - B. Sussex County Council,  
Fenwick Sewer, Route 54 Project**

**; and to approve the Agenda, as amended.**

**Motion Adopted: 3 Yea, 2 Absent.**

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

#### **M 721 04**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve**

**Approve  
Minutes**

**the minutes of November 30, 2004.**

**Motion Adopted: 3 Yea, 2 Absent.**

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

**Corre-  
spondence**

**Mr. Griffin read the following correspondence:**

**BRIDGEVILLE SENIOR CENTER, BRIDGEVILLE, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.**

**Election  
Year  
Contest  
Winners**

**Mr. Sparpaglione and Mr. Layton discussed the Sussex County Election Year Scholarship Contest. Several of the winners of the contest were present and were recognized by the County Council:**

**First Place – Katelyn Phillips of Delmarva Christian High School  
Fourth Place – Marybeth Betts of Cape Henlopen High School  
Fifth Place – Adam Beauregard of Cape Henlopen High School  
Sixth Place – Shane Miller of Sussex Central Middle School**

**The following winners were not in attendance:**

**Second Place – Shane Jensen of Cape Henlopen High School  
Third Place – Lauren Mason of Epworth Christian School**

**Mr. Stickels noted that the winners of the contest receive scholarships. The first place winner receives \$200.00 and the other winners receive \$100.00. the scholarship funds are paid directly to the college where the winners will attend. (The \$200.00 scholarship is funded by the law firm of Griffin and Hackett.)**

**Katelyn Phillips, First Place Winner, asked that \$200.00 be donated to Toys for Tots.**

**Mr. Cole joined the meeting at this time.**

**Manu-  
factured  
Home  
Placement -  
Zero  
Tolerance  
Policy**

**Mr. Stickels reported that Richard Berl, Assistant County Attorney for the Board of Adjustment, has requested that the Council consider adopting a policy requiring any manufactured home being placed in the County to first have a placement survey taken. Specifically, before the County issues a placement permit, it must be satisfied that the customer has arranged for a surveyor to stake the property in order to establish the proper setbacks. Then, the County must receive a placement survey showing the actual location of the dwelling. Mr. Stickels reported that this request is due to the number of cases the Board hears for variances on manufactured home placements. Mr. Berl reported that the Board often sees repeat offenders and that there are several violations from the same installer.**

**Zero  
Tolerance  
Policy  
(continued)**

**Mr. Reed, Chairman of the Governor's Manufactured Housing Council and Vice President of the Manufactured Homeowners Association stated that he is concerned that the costs will be passed on the homeowners. Mr. Reed also commented that property lines in manufactured home communities are often imaginary and that often, fire hydrants do not exist in these communities. He noted that he is in favor of manufactured homes being installed properly; however, he opposes the costs being passed on to the homeowners.**

**Mrs. Briggs, Executive Director of the First State Manufactured Housing Association, stated that there are currently really good regulations in Sussex County. She stated that there are a lot of community owners and retailers that are doing things the right way. She agreed that the costs would be passed on to the homeowners and would therefore affect affordable housing options. She stated that the bigger issue is installation standards and that the State has been working to establish installation standards according to HUD and the NHAI. She noted that this should resolve a lot of the problems.**

**Mr. Sears of Briarwood Manor in Laurel stated a good site plan is needed to start.**

**It was the consensus of the Council to direct Mr. Lank, Director of Planning of Zoning, to look at the current ordinance; to find out the number of variance requests heard relating to this matter; and to report back to the Council.**

**It was also the consensus of the Council that, until a decision is made, the Board of Adjustment should deal with the variance requests on an individual basis, as is the current policy.**

**Adminis-  
trator's  
Report**

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

**1. Holiday Schedule**

**Sussex County government offices will be closed Friday, December 24, and Monday, December 27, 2004, as part of the County government Christmas holiday schedule. Offices will reopen at 8:30 a.m. on Tuesday, December 28, 2004. Offices will also be closed Friday, December 31, 2004, and will reopen Monday, January 3, 2005, at 8:30 a.m.**

**The next regularly scheduled County Council meeting will be on Tuesday, January 4, 2005.**

**2. Airport Committee**

**The next regularly scheduled Sussex County Airport Committee meeting will be held on Wednesday, January 5, 2005, at the Sussex**

County West Administrative Complex, North DuPont Highway, Georgetown, Delaware, at 6:00 p.m. The media, as well as the general public, is welcome to attend this meeting.

**3. Beneficial Acceptance**

**Adminis-  
trator's  
Report  
(continued)**

The Sussex County Engineering Department granted Beneficial Acceptance on December 3, 2004, for Sussex County Project No. 81-04, South Bethany Sanitary Sewer District, Avon Park, Phase II, Agreement No. 364. This project consists of 44 single-family duplexes. Included with this report is a fact sheet on the project.

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

**M 722 04  
Council-  
manic  
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 from Mr. Phillips' Councilmanic Account, \$300.00 from Mr. Cole's Councilmanic Account, and \$200.00 from Mr. Rogers' Councilmanic Account) to the East Millsboro Elementary School for new playground equipment.

**Motion Adopted: 4 Yea, 1 Absent.**

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

**M 723 04  
Council-  
manic  
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00 from Mr. Jones' Councilmanic Account to the Woodbridge School District for the Accelerated Reader Program at the Woodbridge Elementary School.

**Motion Adopted: 4 Yea, 1 Absent.**

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

**M 724 04  
Council-  
manic  
Grant**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$500.00 from Mr. Rogers' Councilmanic Account to Ellendale Youth Teen Crisis for their Christmas Gifts Project.

**Motion Adopted: 4 Yea, 1 Absent.**

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

**M 725 04  
Council-**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 (\$250.00 each from Mr. Rogers' and Mr. Cole's Councilmanic Accounts) to

**manic  
Grant**

**Henlopen Theater Project for theater and educational programs.**

**Motion Adopted: 4 Yea, 1 Absent.**

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

**M 726 04  
Youth  
Activity  
Grant**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$250.00 from Mr. Jones' Youth Activity Grant Account to Milford Pop Warner for the 2004 Award Banquet.**

**Motion Adopted: 4 Yea, 1 Absent.**

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

**M 727 04  
Council-  
manic  
Grant**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$500.00 from Mr. Rogers' Councilmanic Account for the 2004 Milton Community Christmas Parade.**

**Motion Adopted: 4 Yea, 1 Absent.**

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

**M 728 04  
Council-  
manic  
Grant**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Cole's and Mr. Phillips' Councilmanic Account) to the Quiet Resorts Charitable Foundation for renovations to the Visitors Center.**

**Motion Adopted: 4 Yea, 1 Absent.**

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

**Mr. Jones joined the meeting at this time.**

**Proposed  
Ordinance**

**Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (12 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.86 ACRES, MORE OR LESS" (Conditional Use No. 1615) filed on behalf of J & M Enterprises. The Proposed Ordinance will be advertised for Public Hearing.**

- Proposed Ordinance**  
**(continued)**
- Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 41,611 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1616) filed on behalf of Paul Kase. The Proposed Ordinance will be advertised for Public Hearing.
- Proposed Ordinance**
- Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXPANSION OF AN EXISTING RV CAMPGROUND (C/U NO. 827) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 56.7103 ACRES, MORE OR LESS” (Conditional Use No. 1617) filed on behalf of Glen R. Jones. The Proposed Ordinance will be advertised for Public Hearing.
- Presentation of Check/ The Way Home Program**
- Mr. Jones presented a check in the amount of \$2,250.00 to The Way Home Program. The Way Home Program is an interfaith community ministry that supports men and women in their transition from prison to home, and engages the community in this work. The Community Investment Grant was approved by the County Council on December 7, 2004.
- Old Business**
- The Council discussed several conditional use and change of zone applications under Old Business.
- M 729 04 Adopt Proposed Ordinance (C/U No. 1555) (Denied)**
- A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (122 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 15.29 ACRES, MORE OR LESS” (Conditional Use No. 1555) filed on behalf of Paul Robino and Robino-Sanibel-Village, L.L.C., with conditions.
- Motion Denied:** 5 Nay.
- Vote by Roll Call:** Mr. Phillips, Nay; Mr. Cole, Nay;  
Mr. Rogers, Nay; Mr. Jones, Nay;  
Mr. Dukes, Nay
- M 730 04 Adopt Ordinance No. 1738 (C/Z)**
- A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1738 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1

**No. 1548) GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.1714 ACRES OF A 13.0414 ACRE TRACT” (Change of Zone No. 1548) filed on behalf of Gary L. Thomas and Shirley M. Thomas.**

**M 730 04**  
**(continued)**

**Motion Adopted: 4 Yea, 1 Nay.**  
**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**  
**Mr. Rogers, Yea; Mr. Jones, Nay;**  
**Mr. Dukes, Yea**

It was noted that the applicant did place a deed restriction on the parcel next to Parcel No. 1701 (originally Parcel No. 16 with approximately 3.6 acres) restricting it to single family use for that portion of the property. Currently, there is a single family home on that parcel.

**M 731 04**  
**Adopt**  
**Ordinance**  
**No. 1739**  
**(C/U**  
**No. 1591)**

**A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1739 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MODEL HOME DISPLAY AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.02 ACRES, MORE OR LESS, OF A 2.90 ACRE TRACT” (Conditional Use No. 1591) filed on behalf of Louis J. Travalini, Sr., with the following conditions:**

- 1. The conditional use shall be limited to model homes or professional offices.**
- 2. Business hours shall be from 9:00 a.m. to 7:00 p.m.**
- 3. One 4’ x 8’ two-sided lighted sign may be erected along each road.**
- 4. The site plan shall be subject to review and approval by the Planning and Zoning Commission.**

**Motion Adopted: 5 Yea.**

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

**Appeal**  
**Request/**  
**Springfield**  
**Enterprises**

**The Council discussed a request made by Springfield Enterprises that the County Council overturn the denial of the Planning and Zoning Commission to extend the Preliminary Site Plan of the project and to prevent the sunseting of the Project.**

**Mr. Lank, Director of Planning and Zoning, provided a history of the Subdivision:**

**January 16, 1996 – The application was filed.**

**February 14, 1996 – The application was reviewed by TAC.**

**February 26, 1996 – The Commission granted preliminary record plan approval for 210 lots.**

**February 13, 1997 – The Commission granted a one year time extension.**

**Appeal  
Request/  
Springfield  
Enterprises  
(continued)**

**February 12, 1998 – The Commission granted a one year time extension**

**February 11, 1999 – The Commission granted a one year time extension.**

**August 12, 1999 – The Commission granted final approval of the first phase with 113 lots.**

**December 18, 2003 – The applicant received approval of a revised record plan for 177 lots (for the entire project).**

**August 26, 2004 – The Commission denied a request for an additional time extension.**

**Mr. Lank noted that in December 2003, when the Commission granted approval, the approval noted that “the subdivision is required to be substantially under construction by August 17, 2004 or the application will be sunsetted”.**

**Mr. Lank noted that all of the agency approvals have expired.**

**It was noted that the applicant could start the application process over.**

**Mr. Griffin stated that the County’s sunset provision states that any subdivision granted “shall be rendered null and void if substantial construction is not commenced thereon within five years...”**

**Mr. Everett Moore, Attorney for the Applicant, was present. He distributed a copy of a letter he submitted to Mr. Griffin and a copy of the statute Mr. Griffin referred to. He stated that the legislative intent of the statute was to stop speculation on subdivisions and to make a better planning process. He questioned what is substantial construction. He stated that the applicant purchased a subdivision that was already on paper; that they improved the design; they lowered the density; they’ve built an entrance to the property; they’ve moved a tax ditch; they’ve done all the engineering on-site; they’ve done the wetlands delineation; they’ve prepared the plots; they have a wastewater design and permit. Mr. Moore stated that this proves that the applicant has done substantial work. Mr. Moore stated that the County Engineering Department is the agency that told them they were not going to meet the deadline. Also, the applicant did not get the pre-construction meeting that they requested and which is required. Mr. Moore stated that the applicant can show that “they were actively pursuing this at all times”.**



**Mr. Dukes questioned the clear meaning of “substantial construction”. Mr. Lank responded that a definition is included in the Code and he read the definition in its entirety. The definition is referred to in the Sunsetting Ordinance.**

**(continued) Mr. Moore stated that when the Sunsetting Ordinance was established, it was easier to get permits than it is now.**

**M 732 04      A Motion was made by Mr. Phillips, seconded by Mr. Jones, to grant a  
Schedule      Public Hearing on the appeal of Springfield Enterprise Subdivision, No.  
Public      96-2, to be scheduled for January 18, 2005 at 11:00 a.m.  
Hearing on  
Appeal**

**Request/  
Springfield  
Enterprises**

**Motion Adopted:      5 Yea.**

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

**It was noted that the Public Hearing would not be another Hearing on the subdivision application; it would be a Public Hearing on the appeal request.**

**M 733 04      A Motion was made by Mr. Phillips, seconded by Mr. Jones, to adjourn at  
Adjourn      8:40 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

**Robin A. Griffith  
Clerk of the Council**