

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 3, 1995

Call to Order The regular meeting of the Sussex County Council was held Tuesday, January 3, 1995, at 10:00 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware, with the following members present:

Dale R. Dukes	President
George J. Collins	Vice President
Ralph E. Benson	Member
George B. Cole	Member
William D. Stevenson, Sr.	Member

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

M 001 95 A Motion was made by Mr. Benson, seconded by Mr. Collins, that Dale R. Dukes be nominated to serve as President of the Sussex County Council for the year 1995. Motion Adopted by Voice Vote.

M 002 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, that nominations for President of the Sussex County Council be closed. Motion Adopted by Voice Vote.

M 003 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, that Dale R. Dukes be elected to serve as President of the Sussex County Council for the year 1995. Motion Adopted by Voice Vote.

M 004 95 A Motion was made by Mr. Benson, seconded by Mr. Cole, that George J. Collins be nominated to serve as Vice President of the Sussex County Council for the year 1995. Motion Adopted by Voice Vote.

M 005 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, that nominations for Vice President of the Sussex County Council be closed. Motion Adopted by Voice Vote.

M 006 95 A Motion was made by Mr. Benson, seconded by Mr. Cole, that George J. Collins be elected to serve as Vice President of the Sussex County Council for the year 1995. Motion Adopted by Voice Vote.

Appoint- Mr. Stickels, County Administrator, discussed legal staff ments appointments for the year 1995.

M 007 95 A Motion was made by Mr. Benson, seconded by Mr. Collins, that Eugene H. Bayard be appointed the position as County Attorney, Legal Dennis L. Schrader be appointed as Assistant County Attorney, Staff and Peter B. Jones be appointed as Assistant County Attorney for the calendar year 1995.

Motion Adopted: 5 Yea.

M 007 95 (con't) Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

M 008 95 Approve Minutes A Motion was made by Mr. Collins, seconded by Mr. Benson, to approve the minutes of the previous meeting dated December 20, 1994. Motion Adopted by Voice Vote.

Corre- Mr. Bayard, County Attorney, read the following correspondence:
spondence

KATHERINE MAGEE, PRESIDENT, FRIENDS OF THE SOUTH COASTAL LIBRARY, BETHANY BEACH, DELAWARE.
RE: Request for pledge for Annual Fund.

JUANITA J. MORCH, EXECUTIVE DIRECTOR, CAPE HENLOPEN SENIOR CENTER, REHOBOTH BEACH, DELAWARE.
RE: Appreciation for Human Service Grant.

BRUCE E. HICKMAN, SECRETARY, HOME OF THE BRAVE FOUNDATION, MILFORD, DELAWARE.
RE: Appreciation for Human Service Grant.

DOLORES J. SLATCHER, CITY MANAGER, CITY OF SEAFORD, SEAFORD, DELAWARE.
RE: Letter advising Council that the City of Seaford will submit their Community Development Block Grant application directly.

STEVEN BROUGHT, COUNCIL PRESIDENT, FRANKFORD TOWN COUNCIL, FRANKFORD, DELAWARE.
RE: Letter advising Council that the Town of Frankford is interested in participating in the County's application for Community Development Block Grant funding.

Certifi- Mr. Dukes presented a Certificate of Appreciation to Beatrice E.
cate Ennis for devotion, loyalty, and excellence in serving Sussex County from June 5, 1978, to December 30, 1994.

Certifi- Mr. Dukes presented a Certificate of Appreciation to Kenneth
cate C. Whaley for devotion, loyalty, and excellence in serving Sussex County from January 3, 1985, to January 3, 1995.

M 009 95 Authorize Executive Session A Motion was made by Mr. Collins, seconded by Mr. Benson, that the Sussex County Council authorizes an Executive Session to be held in the County Council Chambers on Tuesday, January 10, 1995, at 9:00 a.m., to discuss land acquisition and pending litigation.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Adminis-
trator's
Report

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

1. Library Literacy Grant

Mr. Stickels has received notice from the Delaware Office of Budget acting in its function as the State Clearinghouse. The Budget Office has reviewed the County's request for Federal funding in the amount of \$16,220 to be used for the County's Literacy Project. The Budget Office has declared that the use of these funds is consistent with goals established by the State Office and has approved this project for consideration of Federal funding. However, the State's approval in no way should be interpreted as an indication that the project will be funded by the State should the Federal government choose not to fund the project. The ultimate decision on the funding of the County's Literacy Grant will be based on the determination of the Secretary of the United States Department of Education. The State's approval is only preliminary approval that the project is eligible for funding.

2. The Reverend Martin Luther King, Jr. Celebration

The Eastern Sussex County Celebration Committee will be conducting the Third Annual Dr. Martin Luther King, Jr. Celebration on Saturday, January 14, 1995, starting at 11:00 a.m., in downtown Rehoboth Beach, Delaware. A parade will start at 11:00 a.m. A snow date has been established for Saturday, January 21, 1995, at 11:00 a.m. There will be a banquet at 6:00 p.m. on Saturday, January 14, 1995, at the Bay Center in Dewey Beach. Worship services will be held on Monday, January 16, 1995, at 10:00 a.m. at Epworth United Methodist Church, Baltimore Avenue, Rehoboth Beach, Delaware. County offices will be closed on Monday, January 16, 1995, in observance of Dr. Martin Luther King, Jr.

Resolu-
tions

Mr. Baker, Finance Director, reviewed six Proposed Bank Resolutions listing the accounts of Sussex County Council.

M 010 95
Adopt
Bank
Resolu-
tions

A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adopt the following Resolutions:

Resolution No. R 001 95 entitled "CASH MANAGEMENT ACCOUNT RESOLUTION";

Resolution No. R 002 95 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF DALE DUKES, PRESIDENT; GEORGE J. COLLINS, VICE PRESIDENT; OR D.B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL";

M 010 95
(con't)

Resolution No. R 003 95 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE FACSIMILE SIGNATURES OF ANY TWO OF DALE DUKES, PRESIDENT; GEORGE J. COLLINS, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR";

Resolution No. R 004 95 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF DALE DUKES, PRESIDENT; GEORGE J. COLLINS, VICE PRESIDENT; OR D.B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL";

Resolution No. R 005 95 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE MELLON BANK DELAWARE BEARING THE SIGNATURES OF ANY TWO OF DALE DUKES, PRESIDENT; GEORGE J. COLLINS, VICE PRESIDENT; OR D.B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL";

Resolution No. R 006 95 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 DALE DUKES, PRESIDENT; GEORGE J. COLLINS, 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: 5 Yea.

Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Decrease
in
Interest
Rate on
Line of
Credit

Mr. Baker, Finance Director, advised Council of a decrease in the interest rate on the County's \$25,000,000 Line of Credit with Wilmington Trust Company. The interest rate decrease will be retroactive to October 1, 1994, and will be as follows:

- o the interest payable on obligations outstanding which are not designated under Section 265(b) of the Internal Revenue Code of 1986 as amended (the "Code"), shall be payable at the rate of 75% of the Bank's National Commercial Rate;
- o the interest rate payable on obligations outstanding which are designated under Section 265(b) of the Code shall be payable at the rate of 64% of the Bank's National Commercial Rate.

It was noted that this Line of Credit is used for financing sewer and water projects when a bond sale is anticipated.

West Rehoboth Change Order Mr. Wood, County Engineer, and Mr. Bozick of George, Miles and Buhr, discussed Change Order No. 8, in the amount of \$202,304.00, to the Design/Build Treatment and Spray Facility Contract for the West Rehoboth Project.

M 011 95 Approve West Rehoboth Change Order A Motion was made by Mr. Cole, seconded by Mr. Collins, based on the recommendation of the Consulting Engineers, George, Miles and Buhr and the Sussex County Engineering Department, that the County Council approve Change Order No. 8 to George and Lynch, Inc., in the amount of \$202,304.00, for changing the rip-rap thickness on the three (3) aeration lagoons from 4-inch to 9-inch thickness at a cost of \$56,512.00, and from 4-inch to 12-inch thickness on the storage lagoon at a cost of \$145,792.00, bringing this Change Order total to \$202,304.00 and the revised contract total to \$15,953,685.00 with an unrevised contract completion date of October 16, 1995, contingent upon the approval of Rural Economic and Community Development.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Proposed Ordinance Mr. Benson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.92 ACRES, MORE OR LESS" (Change of Zone No. 1250) filed on behalf of Gordon Berl. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Benson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MAXIMUM OF FORTY-SEVEN MULTI-FAMILY DWELLING UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.92 ACRES, MORE OR LESS" (Conditional Use No. 1100) filed on behalf of Gordon Berl. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Collins introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TONING BOOTHS AND BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 13,300 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1101) filed on behalf of Melvin A. Fox and Gloria M. Fox. The Proposed Ordinance will be advertised for Public Hearing.

Pending Litigation Mr. Schrader, Assistant County Attorney, reported that the pending litigation with L. A. Merrell Construction Co., Inc. has been arbitrated and has resulted in the County not having to pay any defense costs.

Agenda Item Mr. Stickels, County Administrator, advised that Council will be provided an update on the Laurel Landfill at the next Council meeting.

M 012 95 Recess At 10:57 a.m., a Motion was made by Mr. Benson, seconded by Mr. Collins, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Dukes called Council back into session at 1:30 p.m.

Public Hearing C/U No. 1095 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 CONTRACTOR OFFICE AND STORAGE OF PARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 2.34 ACRES, MORE OR LESS" (Conditional Use No. 1095) filed on behalf of Harry W. Mitchell and Vesta A. Mitchell. The Public Hearing was closed.

M 013 95 Adopt Ordinance No. 1002 (C/U No. 1095) A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adopt Ordinance No. 1002 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL CONTRACTOR OFFICE AND STORAGE OF PARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 2.34 ACRES, MORE OR LESS" (Conditional Use No. 1095) filed on behalf of Harry W. Mitchell and Vesta A. Mitchell, with the following stipulations:

1. No signage shall be permitted.
2. Business vehicles shall be parked in the buildings when not in use.
3. Employee parking shall be subject to final site plan review and approval by the Planning and Zoning Commission.
4. No outside storage shall be permitted.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Findings of Fact The Council found that the Conditional Use was appropriate legislative action based upon the following findings of fact:

Findings
of Fact
(con't)

1. The applicant established by substantial evidence that the proposed use is consistent with historic uses of the property, will permit the applicant's business to operate more efficiently, and will have no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U No.
1096)

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 117 DRY BOAT STORAGE SLIPS WITHIN AN EXISTING MANUFACTURED HOME PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.99 ACRES, MORE OR LESS" (Conditional Use No. 1096) filed on behalf of Angola Community Partners, L.L.C. The Public Hearing was closed and action was deferred. Council requested that the applicant and Mr. Norwood, who spoke in opposition to the application, submit proposed findings of fact and recommendations prior to the close of business on Friday, January 13, 1995.

Recess At 3:00 p.m., Mr. Dukes declared a fifteen minute recess.

Reconvene At 3:15 p.m., Mr. Dukes called Council back into session.

Public
Hearing
(C/Z No.
1245)

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 GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 90.28 ACRES, MORE OR LESS" (Change of Zone No. 1245) filed on behalf of Antonio V. Nero and Antonio V. Nero, Jr. The Public Hearing was closed.

M 014 95
Adopt
Ordinance
No. 1003
(C/Z No.
1245)

A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Ordinance No. 1003 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 90.28 ACRES, MORE OR LESS" (Change of Zone No. 1245) filed on behalf of Antonio V. Nero and Antonio V. Nero, Jr.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Findings of Fact The Council found that the Change of Zone was appropriate legislative action based upon the following findings of fact:

1. The applicant established by substantial evidence that the proposed change of zone will serve to meet a growing need for GR homesites in the area to bring the developed portion of the site into an appropriate zoning classification.
2. The Change of Zone will have no adverse impact on the character of the community, property values therein, traffic or the environment in the area.
3. The Change of Zone is consistent with the purposes and goals of the Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing (C/Z No. 1246) 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 5.5247 ACRES, MORE OR LESS" (Change of Zone No. 1246) filed on behalf of Kenneth L. Webb and Robert E. Webb. The Public Hearing was closed.

M 015 95 Adopt Ordinance No. 1004 (C/Z No. 1246) A Motion was made by Mr Stevenson, seconded by Mr. Benson, to Adopt Ordinance No. 1004 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 5.5247 ACRES, MORE OR LESS" (Change of Zone No. 1246) filed on behalf of Kenneth L. Webb and Robert E. Webb.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea; Mr. Collins, Yea; Mr. Stevenson, Yea; Mr. Dukes, Yea

Findings of Fact The Council found that the Change of Zone was appropriate legislative action based upon the following findings of fact:

1. The applicant established by substantial evidence that the proposed Change of Zone will serve an existing community need for a convenience-type store.

Findings
of Fact
(con't)

2. The applicant established by substantial evidence that the proposed Change of Zone will have no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.
3. The proposed change of zone conforms with the purposes and goals of the Comprehensive Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 016 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Adjourn adjourn at 3:36 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council