

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-JANUARY 15, 1991

Call to
Order

The regular meeting of the Sussex County Council was held on Tuesday, January 15, 1991 at 10:00 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware with the following members present:

Dale R. Dukes	President
Ralph E. Benson	Vice President
George B. Cole	Member
George J. Collins	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 018 91
Approve
Minutes

A Motion was made by Mr. Collins, seconded by Mr. Benson, to approve the minutes of the previous meeting as submitted. Motion Adopted by Voice Vote.

Corre-
spondence

Mr. Bayard, County Attorney, read the following correspondence:

KERMIT H. JUSTICE, SECRETARY, DELAWARE DEPARTMENT OF TRANSPORTATION, DOVER
RE: Commendation and appreciation for the Council's recent action to bar strip development along major roads in western and central Sussex County.

RICHARD THEK, SEAFORD
RE: Council's decision to further restrict development along the highway of US 13 and US 113 provides a major step in creating a safer road system in our County.

SUSSEX COUNTY VOCATIONAL-TECHNICAL SCHOOL DISTRICT, GEORGETOWN
RE: Newsletter entitled "THE SUSSEX TECH VOICE" for January 1991.

Proposed
Ordinance
to be
Prepared

Mr. Stickels, County Administrator, advised Council that a Proposed Ordinance would be prepared for introduction and public hearing that would provide enabling powers for the implementation of the verbiage adopted in the Western Sussex Land Use Plan barring strip development along major roads.

January 15, 1991

Agenda
Procedures

Mr. Stickels, County Administrator, requested authorization for the Director of Planning and Zoning and the County Administrator to schedule public hearings concerning land use decisions. Anticipated time required per hearing can usually be fairly accurately established by the comments, written and oral, that are received prior to the hearing. Scheduling hearings that require the least amount of time first on the Agenda would better serve the public.

M 019 91
Agenda
Procedure

A Motion was made by Mr. Benson, seconded by Mr. Collins, that the Sussex County Council authorize the Planning and Zoning Director and the County Administrator to set agenda items for public hearings to best serve the public interest of the citizens of Sussex County; starting February 5, 1991. Motion Adopted: 5 Yea.

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

Public
Hearing
Procedure

Mr. Bayard, County Attorney, explained a proposal for conducting public hearings. Implementation of the proposal would create an effective and efficient means of progression for the hearing. The hearing procedure, if adopted, would be as follows:

- a. The applicant and representatives favoring the change would present their application in its entirety.
- b. Opponents would state their opposition in its entirety.
- c. The Council would address all their concerns and questions after the completion of all testimony.
- d. There would be no rebuttal or surrebuttal.

The proposal was discussed. Mr. Bayard, County Attorney, further advised that applicants and opponents should be allowed to testify without interruption; rebuttal is non-productive. A written policy will be developed by Mr. Bayard and placed on the Agenda next week for Council's consideration and vote.

Landscaped
Buffer
Strips

The Proposed Ordinance relating to the establishment of landscaped buffer strips was discussed. Public Hearing was held on November 13, 1990 and the record was held open for two (2) weeks for written comments.

January 15, 1991

Landscaped
Buffer
Strips
(Con't.)

Written comments, concerning the Proposed Ordinance relating to landscaped buffer strips, were read into the record from: A. Temple Carter, Subdivision Manager, Delaware Department of Transportation; Donald J. McCann, President, McCann, Inc.; Jim Bennett, President, Delaware Forestry Association; Cashar W. Evans, Chairman, Sussex Conservation District; William A. McGowan, President, Delaware Association of Nurserymen; and, Kevin Donnelly, Planner, Division of Resource Management, State Department of Agriculture. Major items of concern included:

- a. The definition of agricultural use land. Lands adjacent to actively maintained forested areas should be included. The definition as stated in the Farmland Assessment Act of 1968 (Delaware Code, Chapter 83, Title 9) should be used.
- b. A minimum of a twenty (20) foot easement for maintenance on all ditches should be established.
- c. Are single family lots not contiguous with other lots exempt?

It was the consensus of the Council that these concerns be addressed in the Proposed Ordinance and then placed on the Agenda for a vote.

Bid
Opening
Project
91-01

Mr. Wood, County Engineer, opened the following bids for Contract No. 1 - Project 91-01 entitled "Repair, Alteration and/or Installation of Electrical Items":

SOLAR HEATING, INC. T/A SUSSEX ELECTRIC, MILTON

Electrician's hourly rate	\$ 20.00
Laborer's hourly rate	12.00
Engineering Technician's hourly rate	30.00
Hourly rate for bucket truck with driver	25.00

NICKLE ELECTRIC, INC., SEAFORD

Electrician's hourly rate	\$ 21.00
Laborer's hourly rate	14.00
Engineering Technician's hourly rate	31.50
Hourly rate for bucket truck with driver	50.00

HAWKINS ELECTRIC, MILLSBORO

Electrician's hourly rate	\$ 20.00
Laborer's hourly rate	6.00
Engineering Technician's hourly rate	45.00
Hourly rate for bucket truck with driver	45.00

Bids will be reviewed for a recommendation.

January 15, 1991

Bid
Opening
Project
91-02

Mr. Wood, County Engineer, opened the one (1) and only bid received for Contract No. 1 - Project No. 91-02 entitled "Repair, Alteration and/or Installation of Plumbing, Heating, Air Conditioning, Sheet Metal, and Other Related Items":

SOLAR HEATING, INC. T/A SUSSEX ELECTRIC, MILTON

Plumber's hourly rate	\$ 20.00
Sheet Metal Worker's hourly rate	20.00
Laborer's hourly rate	12.00
Engineering Technician's hourly rate	25.00

The bid will be reviewed for a recommendation.

Adminis-
trator's
Report

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

1. Delaware Solid Waste Authority - Public Hearing - The Board of Directors of the Delaware Solid Waste Authority will meet on Thursday, January 17, 1991 starting at 5:00 p.m. The meeting will take place in the Faculty Dining Room at the Kent County Vocational School at the Delaware Technical and Community College, Dover. The Bi-County Recycling Project is scheduled to be addressed. Mr. Michael Izzo, Assistant County Engineer, will be attending the meeting.
2. Nanticoke Citizens Advisory Committee - The next meeting of the Nanticoke Citizens Advisory Committee is scheduled for Monday, February 4, 1991 at 7:00 p.m. at the Seaford Police Department Conference Room, Seaford.
3. Inland Bays Estuary Program - The Inland Bays Estuary Program Citizens Advisory Committee will be meeting on Monday, January 28, 1991 at 9:30 a.m. The meeting will be held at the Indian River Yacht Club, Road 312, Millsboro.
4. Courthouse Closing - The Sussex County Courthouse will be closed on Monday, January 21, 1991 in observance of the birthday of Dr. Martin Luther King, Jr.

Long
Neck
Sanitary
Sewer
District

Mr. Green, Chief of Utility Construction, distributed for Council's review a financial summary of the Long Neck Sanitary Sewer District. The financial summary revealed that with the inclusion of today's requested Change Order, Contract No. 6 will remain well under the original estimate of the engineers.

January 15, 1991

M 020 91
Long
Neck
Sanitary
Sewer
Change
Order

A Motion was made by Mr. Cole, seconded by Mr. Benson, based upon the recommendation of the Inspection Engineer, Kidde Consultants, Inc., and the Sussex County Engineering Department, that the Sussex County Council President be authorized to issue Change Order No. 4 for the Long Neck Sanitary Sewer District Contract No. 6, to L. A. Merrell Construction Company, Inc. for soil compaction and concrete cylinder testing for an additional amount of \$7,546.78, increasing this contract amount to \$5,196,350.95. Motion Adopted: 5 Yea.

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

C/Z #1100

Change of Zone No. 1100, filed on behalf of Sherfor, Inc., was discussed. Public Hearing was held on January 8, 1991 and action was deferred.

M 021 91
Proposed
Ordinance
C/Z #1100

A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to Adopt 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 RPC RESIDENTIAL PLANNED COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 234.88 ACRES, MORE OR LESS" (C/Z #1100) filed on behalf of Sherfor, Inc., with the following stipulations:

1. Project shall be developed to phasing and construction schedule as presented by applicant.
2. Roads shall be built to State specifications. A bond in the amount of one hundred twenty-five percent (125%) of construction cost shall be posted.
3. Deed restrictions will limit individual lots from direct road access.
4. Sewer collection system shall be constructed to Chapter 110, Part II, Code of Sussex County, (Ordinance No. 38) specifications.
5. Lot size shall be a minimum of ten thousand (10,000) square feet per lot.
6. A twenty (20) foot vegetative buffer zone shall be provided.

January 15, 1991

M 021 91
(Con't.)
Proposed
Ordinance
C/Z #1100

7. Water service shall be of a central system, to include fire protection standards.
8. Land shall be dedicated to the County adjacent to Road 306 for a future regional pumping station.
9. Signs shall be limited to two (2), thirty-two (32) square feet per facing, non-illuminated.
10. Final site plan shall be reviewed by the Planning and Zoning Commission.
11. If the designated sewer disposal site is abandoned, the area must remain as open space.

Motion Denied: 1 Yea; 3 Nay; 1 Abstention.

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

Findings
of Facts
C/Z #1100

The Council found that the change of zone was not appropriate legislative action based upon the following findings of facts:

1. The uncertainty of the phased purchasing of property and the length of time involved in the phasing (10 years) renders the application speculative and unacceptable.
2. A five hundred and seventy (570) lot community would substantially increase traffic on County roads unaccustomed to significant traffic.
3. The land itself does not appear to be suitable for residential development.
4. The use of the land for an RPC would be contrary to the concept of preserving farmland, and is out of character with the general area.
5. The proximity of the proposed site to the Long Neck Sewer Treatment Plant renders the site unacceptable for high-density development.
6. The proposed project would have an adverse affect on two (2) separate school districts.
7. Development pursuant to the application would be contrary to the Comprehensive Development Land Use Plan.

January 15, 1991

M 022 91
Recess

A Motion was made by Mr. Cole, seconded by Mr. Collins, to recess at 11:40 a.m. until 1:30 p.m. Motion Adopted by Voice Vote.

Dedication
of Medic
41 Unit

The Dedication of the first Sussex County Paramedic Unit, Medic 41, was held in the parking lot adjacent to the Courthouse at 11:45 a.m. Immediately following a presentation of a plaque by Dr. Lester N. Wright, Director, State Division of Public Health, the 911/Emergency Operations Center was notified that Medic 41 was in service by County Council President. The unit will be staffed by ten (10) Nationally Registered Paramedics and will respond from the Paramedic Office in Georgetown. It will provide county-wide service on a limited basis.

Reconvene

President Dukes called the Council back into session at 1:30 p.m.

Public
Hearing
C/Z #1103

A Public Hearing was held on 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.48 ACRES, MORE OR LESS" (C/Z #1103) filed on behalf of Donald Bunting. The Public Hearing was closed.

It was the consensus of the County Council, the applicant for Change of Zone No. 1103, and opponents that a Conditional Use would be more appropriate use of the land than the B-1 Neighborhood Business as sought.

M 023 91
Adopt
Proposed
Ordinance
C/Z #1103

A Motion was made by Mr. Benson, seconded by Mr. Cole, to Adopt 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.48 ACRES, MORE OR LESS" (C/Z #1103) filed on behalf of Donald Bunting. Motion Denied: 5 Nay.

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

January 15, 1991

M 024 91 A Motion was made by Mr. Cole, seconded by Mr. Benson, to
Waive waive the fee for a Conditional Use application for Donald
Fee for Bunting, applicant for Change of Zone No. 1103. Motion
Conditional Adopted: 5 Yea.
Use

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

Public A Public Hearing was held on Proposed Ordinance entitled
Hearing "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX
Amend COUNTY RELATING TO ZONING PROCEDURES". The Public Hearing
Chapter was closed and action was deferred.
115

M 025 91 A Motion was made by Mr. Benson, seconded by Mr. Dukes,
Sign authorizing the Council President to sign Subdivision Plan
Subdivi- No. 88-9, L & W Country Estates. The Roll Call was not
sion completed on this vote. As a result of discussion midway
Plan the vote, Council was advised by the County Attorney that
their approval of a Subdivision Plan was not necessary.
However, it is a ministerial duty of the President of the
Sussex County Council to sign the Plan once it has been
approved by all agencies.

Subdivi- President Dukes signed the following Subdivision Plans:
sion Plans 88-9 L & W Country Estates and 90-21 Springwood Estates.
Signed

Proposed Mr. Cole introduced Proposed Ordinance entitled "AN ORDINANCE
Ordinance TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
C/U #959 RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE
LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN
RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.0 ACRES, MORE
OR LESS" (C/U #959) filed on behalf of Delaware Electric
Cooperative. The Proposed Ordinance will be advertised
for Public Hearing.

Proposed Mr. Stevenson introduced Proposed Ordinance entitled "AN
Ordinance ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
C/U #960 AGRICULTURAL RESIDENTIAL DISTRICT FOR BULK STORAGE OF PROPANE
GAS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING
8.51 ACRES, MORE OR LESS" (C/U #960) filed on behalf of
Chesapeake Utilities Corporation/Eastern Shore Natural Gas
Co. The Proposed Ordinance will be advertised for Public
Hearing.

January 15, 1991

Proposed
Ordinance
C/U #961

Mr. Benson introduced Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25,000 SQUARE FEET, MORE OR LESS" (C/U #961) filed on behalf of Carol A. Soots. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance
C/Z #1114

Mr. Cole introduced Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-2/RPC MULTI-FAMILY RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 61.12 ACRES, MORE OR LESS" (C/Z #1114) filed on behalf of Bayville Shore Development Corp. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance
C/Z #1115

Mr. Cole introduced Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A M MARINE DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 35.32 ACRES, MORE OR LESS" (C/Z #1115) filed on behalf of Bayville Shore Development Corp. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance
C/Z #1116

Mr. Cole introduced Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN UR URBAN RESIDENTIAL DISTRICT TO AN UB URBAN BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN THE TOWN OF MILLVILLE, BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.16 ACRES, MORE OR LESS" (C/Z #1116) filed on behalf of Atlantic Auction Company, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance
C/Z #1117

Mr. Benson introduced 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 31,633 SQUARE FEET, MORE OR LESS" (C/Z #1117) filed on behalf of Mark A. Burnham. The Proposed Ordinance will be advertised for Public Hearing.

January 15, 1991

Proposed
Ordinance
C/Z #1118

Mr. Collins introduced 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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.0 ACRES, MORE OR LESS" (C/Z #1118) filed on behalf of Peninsula Oil Company. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance
C/Z #1119

Mr. Cole introduced Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 29,454 SQUARE FEET, MORE OR LESS" (C/Z #1119) filed on behalf of Horace A. Sagers. The Proposed Ordinance will be advertised for Public Hearing.

M 026 91
Council-
manic
Grant

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to give \$700.00, from Mr. Benson's Councilmanic Account, to Milton Fire Department, Inc. to help fund their self-contained breathing apparatus. Motion Adopted: 5 Yea.

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

M 027 91
Council-
manic
Grant

A Motion was made by Mr. Stevenson, seconded by Mr. Cole, to give \$500.00, from Mr. Stevenson's Councilmanic Account, to Woodbridge Little League to help with expenses for a new T-Ball field. Motion Adopted: 5 Yea.

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

M 028 91
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, to give \$500.00, from Mr. Cole's Councilmanic Account, to Rehoboth Art League, Inc. to support their 18th Members' Fine Craft Exhibition. Motion Adopted: 5 Yea.

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

January 15, 1991

Adminis-
trator's
Announce-
ments

Mr. Stickels, County Administrator, made the following announcements:

1. A Proposed Ordinance will be drafted for public hearing that will allow the Council to have some control over Subdivision Plans.
2. Legislation will be sought to Amend Title 9 of the Delaware Code relating to reimbursement for travel.
3. John Hughes, Director, Division of Soil and Water Conservation, DNREC, wants to meet with Council immediately following their meeting being held at the Sussex Soil Conservation District Office, Georgetown, Friday, January 25th, to discuss stormwater management. A Draft of the Proposed Sussex County Stormwater Management Ordinance, as prepared by the Sussex Soil Conservation District, was given to each Councilman for review.

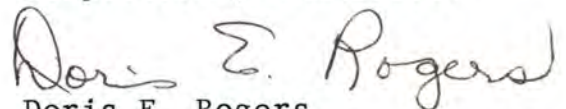
Request

Councilman Stevenson had been contacted by the Bi-Centennial Committee for the Town of Georgetown requesting funds for their celebration. He questioned if each Councilman would be willing to give \$200.00 from their Councilmanic Account for this project. Discussion followed, however, there was no action taken.

M 029 91
Adjourn

A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to adjourn at 2:55 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Doris E. Rogers
Clerk of the County Council