

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-JANUARY 16, 1990

Call to
Order

The regular meeting of the Sussex County Council was held on Tuesday, January 16, 1990, at 10 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware, with the following members present:

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

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

M 022 90
Approval
of Minutes

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

Corre-
spondence

Mr. Jones, Assistant County Attorney, read the following correspondence:

G. WALLACE CAULK, STATE DIRECTOR, FARMERS HOME ADMINISTRATION, DOVER

RE: A letter of appreciation for the manner in which Donna Buckle, Director, Sussex County Community Development, has managed the Farmers Home Administration Housing Preservation Grant in Sussex County. Expressing regret at her leaving the job, and asking the Council to convey their congratulations to her for a job well done and extend best wishes in her new job.

HANDi NETWORK NEWS, WILMINGTON
RE: Newsletter for January, 1990.

Building
Code

Mr. Stickels, County Administrator, reported that Ordinance No. 617, addressing new building permit procedures for two family residential structures, multi-family residential dwellings and business, commercial and industrial structures went into effect on January 15, 1990. The three (3) inspections namely foundation, framing and final, were reviewed in addition to the fees charged. Additional County personnel have been hired to implement the program. The importance of the turnaround period for inspections to be completed was stressed.

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Selbyville
Agreement

The request from the Town of Selbyville to Amend their Agreement for the discharge of treated sewage into the County's Ocean Outfall allowing for the discharge of treated sewage from twenty-four (24) units located at Mill Pond Estates was discussed again. The property is outside the Selbyville Town limits and is in Maryland.

M 023 90
Amend
Selbyville
Agreement

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to Amend the Agreement between Sussex County Council and the Town of Selbyville dated October 16, 1985, to allow for the connection of twenty-four (24) EDUs for the Mill Pond Subdivision located in the State of Maryland, contingent upon the developer paying an administrative fee of \$100.00 per EDU to the South Coastal Regional Wastewater Treatment Facility. Motion Adopted: 4 Yea; 1 Abstention.

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

M 024 90
Ocean
Way
Estates -
Beneficial
Occupancy

A Motion was made by Mr. Cole, seconded by Mr. Dukes, that Sussex County Council grant beneficial occupancy of the wastewater collection facilities for Ocean Way Estates for the purpose of releasing the utility contractor. Motion Adopted: 5 Yea.

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

M 025 90
Ocean
Way Estates
Escrow
Agreement

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, authorizing the Sussex County Engineering Department to enter into an Escrow Agreement with Ocean Way Estates, Inc. in the amount of \$55,330.00 for the purpose of designing transmission and pumping facilities for wastewater treatment to service the Ocean Way Estates Subdivision. Motion Adopted: 4 Yea; 1 Abstention.

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

M 026 90
Ocean Way
Estates
Design
Agreement

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, authorizing the Sussex County Engineering Department to enter into a Design Agreement for facilities to service the South Coastal Regional Wastewater Facility in the area of Ocean Way Estates, Inc. in an amount not to exceed

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M 026 90
(Con't.)
Ocean Way
Estates

\$55,330.00, contingent upon approval of the agreement by the Sussex County Attorney. Motion Adopted: 5 Yea.

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

M 027 90
Procedural
Steps to
Extend
Bethany
Beach
Sanitary
Sewer

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, authorizing the Sussex County Engineering Department to take procedural steps to extend the Bethany Beach Sanitary Sewer District to include Sections I and II of Ocean Way Estates Subdivision. Motion Adopted: 4 Yea; 1 Abstention.

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

Mallard
Lakes -
Sewer
Capacity
in Fenwick
Island
Sanitary
Sewer
District

At the Public Hearing held January 2, 1990 for Change of Zone No. 1037, filed on behalf of Gray Farm Farmers, which would allow for the expansion of Mallard Lakes Subdivision, the question of sewer capacity in the Fenwick Island Sanitary Sewer District was raised and input from the County Engineering Department was requested.

Mr. Russell Archut, Chief of Planning and Permits, County Engineering Department, reviewed a letter addressing the information used in making the recommendation on this issue. Highlights of the letter included:

1. Ordinance No. 495, prohibiting the transfer, exchange, or conveyance of equivalent dwelling units (EDUs) as designated in the County Engineer's sewer facility study. This Ordinance locked in the number of EDUs that could be developed on a particular property in accordance with density limits outlined in the South Coastal Expansion Report No. 1. The report brought to everyone's attention the fact that the sanitary sewer systems were limited in capacity and may need expansion in the future to accommodate growth.
2. This has been substantiated in the South Coastal Area Planning Study, as done by George, Miles & Buhr, and presented in draft form in recent months. This Study determined that the Fenwick Island Sanitary Sewer District requires upgrades to meet the current and future needs of the district.
3. There is capacity remaining for EDUs in the Fenwick Island Sanitary Sewer District.

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Mallard
Lakes
(Con't.)

The County Engineering Department, based upon the preceding facts, recommends the acceptance of the fifty (50) units to be served by the Fenwick Island Sanitary Sewer District as proposed by Change of Zone No. 1037, filed on behalf of Gray Farm Farmers, for Mallard Lakes Subdivision, Phase VII.

Administra-
tor's
Report

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

1. Mr. Wood, County Engineer, will be attending the public meeting of Delaware Solid Waste Authority on Thursday, January 18, 1990.
2. The speaker at the next meeting for the Delmarva Advisory Council Resource Recovery Committee, to be held January 31, 1990 in Salisbury, will be a representative of a company that purchases two-liter drink bottles for the purpose of recycling them into new textile products. Mr. Stickels will be attending this meeting and invited Council members to join him.
3. The Sussex County Local Emergency Planning Committee will be hosting a workshop on Tuesday, February 6, 1990 starting at 7 p.m. in the theater at Delaware Technical and Community College, Georgetown. Private business, local government, and fire service representatives are invited to participate. Representatives of the United States Environmental Protection Agency, Department of Public Safety, Division of Emergency Planning and Operations, and the local Emergency Planning Committee will be present to review the requirements of the Superfund Amendments and Reauthorization Act of 1986 (S.A.R.A.).
4. The federal government has transferred the rights to the Assawoman Canal, 98.37 acres of unimproved land, to the State of Delaware with contingencies.

M 028 90
The Curves -
Fenwick
Island
Sanitary
Sewer
District

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Inspection Engineer, Kidde Consultants, Inc. for Sussex County Project No. 81-04, that the Sussex County Council grant Conditional Acceptance for the wastewater facilities in The Curves in the Fenwick Island Sanitary Sewer District. Motion Adopted: 5 Yea.

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

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M 029 90
Dagsboro-
Frankford
Sanitary
Sewer
District

A Motion was made by Mr. Mariner, seconded by Mr. Dukes, that Agreement No. 7, Project No. 88-14, Dagsboro-Frankford Sanitary Sewer District Wastewater Collection System Design, be Amended to include Easement Survey without a change in the current contract amount of \$250,400. Motion Adopted: 5 Yea.

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

Ellis
Pond

The Ellis Pond Subdivision No. 87-11 was withdrawn from the Agenda.

N 030 90
Owls Nest
Subdivision

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt the Plat Plan for Subdivision No. 89-14 - Owls Nest. Motion Adopted: 5 Yea.

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

Bids -
Project
90-01

Bid were opened for Project No. 90-01 - Repair, Alteration and/or Installation of Electrical Items and read into the record as follows:

Solar Heating, Inc. t/a Sussex Electric

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.

Electrician's hourly rate	\$19.50
Laborer's hourly rate	\$13.50
Engineering Technician's hourly rate	\$29.00
Hourly rate for bucket truck with driver	\$50.00

Bid
Project
90-02

One (1) bid only was received for Project No. 90-02 - Repair, Alteration and/or Installation of Plumbing, Heating, Air Conditioning, Sheet Metal, and Other Related Items and was read into the record as follows:

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Bid
(Con't.)
Project
90-02

Solar Heating, Inc. t/a Sussex Electric

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

All bids will be reviewed and a recommendation for both projects will be brought back by the Engineering Department at a later time.

C/U #924

Conditional Use No. 924, filed on behalf of Ronald E. Hastings and W. W. Harper, Jr., was discussed. Public Hearing was held on January 2, 1990 and action was deferred.

M 031 90
Adopt
Ordinance
No. 648
C/U #924

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt Ordinance No. 648 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION TO AN EXISTING MANUFACTURED HOME PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 15.35 ACRES MORE OR LESS, OF A 23.4 ACRE TRACT" (C/U #924) filed on behalf of Ronald E. Hastings and W. W. Harper, Jr. with the following stipulations:

1. A six (6) foot high stockade fence shall be required on all property lines of the existing park and the proposed addition, excluding the property line along Route 13.
2. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
3. Final approval of the site plan shall be subject to receipt of certification from the State DNREC that all existing septic systems have valid permits, and that the undeveloped lots are feasible for septic systems.
4. Permits shall be obtained for all existing manufactured homes, additions and accessory structures upon obtaining final approval and all necessary agency approvals.
5. No retail businesses shall be permitted on site.
6. Any undeveloped street shall be built to County specifications and perpetually maintained.

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M 031 90
(Con't.)
Ordinance
No. 648
Stipulations

7. Any existing street shall be bituminous surface treated and perpetually maintained.
8. Final lot size is subject to approval by the Planning and Zoning Commission based on compliance with DNREC regulations.

Motion Adopted: 5 Yea.

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

Findings
of Facts
C/U #924

The findings of facts and the recommendations of the Planning and Zoning Commission are hereby incorporated into the record and into the findings of facts of the Council. By adopting this Ordinance, it has been found that the conditional use is appropriate legislative action based upon the following findings of facts:

1. The proposed land use promotes health, safety, and morale of the present and future inhabitants of Sussex County in that the use is generally of a public or semi-public character and is essential for the convenience and general welfare of the present and future inhabitants of Sussex County.
2. Central water is available to the lots.
3. Approval will be obtained from DNREC for on-site septic.

M 032 90
Recess

A Motion was made by Mr. Dukes, seconded by Mr. Mariner, to recess at 11:25 a.m. Motion Adopted by Voice Vote.

Reconvene

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

Public
Hearing
C/U #925

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXTENSION TO CONDITIONAL USE OF NO. 507 FOR RETAIL SALES AND WAREHOUSING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 15,024 SQUARE FEET, MORE OR LESS" (C/U #925) filed on behalf of Robert J. Messick.

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M 033 90
Adopt
Ordinance
No. 649
C/U #925

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to Adopt Ordinance No. 649 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXTENSION TO CONDITIONAL USE NO. 507 FOR RETAIL SALES AND WAREHOUSING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 15,024 SQUARE FEET, MORE OR LESS" (C/U #925) filed on behalf of Robert J. Messick. Motion Adopted: 5 Yea.

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

Findings
of Facts
C/U #925

The findings of facts and the recommendations of the Planning and Zoning Commission are hereby incorporated into the record and into the findings of facts of the Council. By adopting this Ordinance, it has been found that the proposed use is of public or semi-public character and is essential and desirable for the general convenience and welfare. It has also been found that the Conditional Use is appropriate legislative action based upon the following findings of facts:

1. The proposed land use promotes health, safety, and morale of the present and future inhabitants of Sussex County.
2. The proposed land use promotes the convenience, order, prosperity, and welfare of the present and future inhabitants of Sussex County in that a conditional use exists on the property for a farm products business, and this application is merely an extension of that business. The existing business has been there since 1950. There is no anticipated negative effect on property values.
3. No negative impact on traffic.

Public
Hearing
C/U #926

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.01 ACRES, MORE OR LESS" (C/U #926) filed on behalf of Mt. Zion A.M.E. Cemetery.

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M 034 90
Adopt
Ordinance
No. 650
C/U #926

A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adopt Ordinance No. 650 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CEMETERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.01 ACRES, MORE OR LESS" (C/U #926) filed on behalf of Mt. Zion A.M.E. Cemetery with the following stipulations:

1. Arrangements shall be made satisfactory to the County Attorney for perpetual maintenance of the cemetery.
2. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission. Final approval shall be subject to receipts of approval from the Sussex Conservation District for erosion/sediment control and the State Department of Transportation for entrance locations.

Motion Adopted: 5 Yea.

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

Findings
of Facts
C/U #926

The findings of facts and the recommendations of the Planning and Zoning Commission are hereby incorporated into the record and into the findings of facts of the Council. By adopting this Ordinance, it has been found that the Conditional Use is generally of a public or semi-public character and is essential for the general convenience and welfare based upon the following findings of facts:

1. The proposed land use promotes health, safety, and morale of the present and future inhabitants of Sussex County in that cemetery space is needed.
2. The proposed land use promotes the convenience, order, prosperity, and welfare of the present and future inhabitants of Sussex County in that no adverse affect on property values is anticipated.
3. There will be no effect on traffic.

Public
Hearing
C/Z #1039

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

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Public
Hearing
(Con't.)
C/Z #1039

TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.35 ACRES, MORE OR LESS" (C/Z #1039) filed on behalf of Norris L. Niblett. The Public Hearing was closed and the record will be held open for thirty (30) days.

Public
Hearing
C/Z #1040

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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS" (C/Z #1040) filed on behalf of Daniel G. McMunn.

M 035 90
Deny
Proposed
Ordinance
And Waive
Filing Fee
for C/U

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Deny 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS" (C/Z #1040) filed on behalf of Daniel G. McMunn and waive the filing fee for a Conditional Use for the proposed zoning change. Motion Adopted: 3 Yea; 2 Nay.

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

Findings
of Facts
C/Z #1040

The findings of facts and the recommendations of the Planning and Zoning Commission were incorporated into the record and into the findings of fact of the Council. The Council found that a rezoning of the parcel to B-1 was not appropriate, in that the rezoning would permit any use allowed in a B-1 District, and would not be limited to the hunting and fishing store proposed by the applicant. The Council found that B-1 was out of character with the surrounding agricultural area and may have a negative impact on the area.

Public
Hearing
C/Z #1041

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,

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Public
Hearing
(Con't.)

CONTAINING 23,496 SQUARE FEET, MORE OR LESS" (C/Z #1041)
filed on behalf of James G. and Pamela J. Martin.

M 036 90
Adopt
Ordinance
No. 651
C/Z #1041

A Motion was made by Mr. Dukes, seconded by Mr. Mariner, to Adopt Ordinance No. 651 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 23,496 SQUARE FEET, MORE OR LESS" (C/Z #1041) filed on behalf of James G. and Pamela J. Martin. Motion Adopted: 4 Yea; 1 Abstention.

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

Findings
of Facts
C/Z #1041

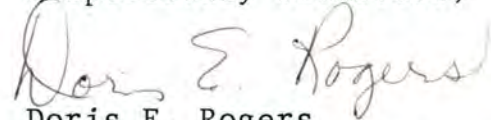
The findings of facts and the recommendations of the Planning and Zoning Commission are hereby incorporated into the record and into the findings of facts of the Council. By adopting this Ordinance, it has been found that the change of zone is appropriate legislative action based upon the following findings of facts:

1. The proposed land use promotes health, safety, and morale of the present and future inhabitants of Sussex County.
2. The proposed land use promotes the convenience, order, prosperity, and welfare of the present and future inhabitants of Sussex County in that it is in character with surrounding commercial uses. Furthermore, rental space for non-retail business is difficult to find in the beach area.
3. Congestion of roads or streets is not anticipated.

M 037 90
Adjourn

A Motion was made by Mr. Mariner, seconded by Mr. Dukes, to adjourn at 2:30 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,


Doris E. Rogers
Clerk of the County Council