

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 28, 1997

Call to Order The regular meeting of the Sussex County Council was held Tuesday, January 28, 1997, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
George J. Collins	Vice President
George B. Cole	Member
Finley B. Jones, Jr.	Member
Lynn J. Rogers	Member

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

Amend Agenda Mr. Dukes requested that the Agenda be amended to include an Executive Session, for the purpose of discussing personnel, immediately following additional business.

M 043 97 Amend Agenda A Motion was made by Mr. Jones, seconded by Mr. Collins, that the Agenda be amended to include an Executive Session immediately following Additional Business.

Motion Adopted: 5 Yea.

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

M 044 97 Adopt Agenda A Motion was made by Mr. Collins, seconded by Mr. Rogers, to Adopt the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 045 97 Approve Minutes A Motion was made by Mr. Collins, seconded by Mr. Jones, to approve the minutes of the previous meeting dated January 21, 1997.

Motion Adopted: 5 Yea.

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

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

EDWARD J. FREEL, SECRETARY OF STATE, STATE OF DELAWARE,
DEPARTMENT OF STATE, DOVER, DELAWARE.

RE: Notice of Surplus Determination
Government Property
Delaware Breakwater Light, Delaware Bay, Lewes, Delaware

HARVEY D. LEIGHTY, EXECUTIVE DIRECTOR, DELAWARE CRIME STOPPERS,
DOVER, DELAWARE.

RE: Letter of appreciation for \$1,500 Human Service Grant.

STEPHEN D. KOGLER, DEWEY BEACH, DELAWARE.

RE: Letter acknowledging the friendly and efficient service
the County provided during the issuance of a building permit.

ANNA JANE MERCER, PRESIDENT, LEWES LIBRARY COMMISSION, LEWES,
DELAWARE.

RE: Letter in appreciation of the check in the amount of
\$6,864.36 which they received, representing the first payment
for FY `97 for the mobile home placement tax.

ANNA JANE MERCER, PRESIDENT OF SCILTA, LEWES PUBLIC LIBRARY,
LEWES, DELAWARE.

RE: Letter of invitation to a lunch on Tuesday, February 18,
1997, immediately following the Council meeting, at the Sussex
Pines Country Club.

EARL CHAMBERLIN, OCEAN VIEW, DELAWARE.

RE: Letter thanking Council for the opportunity given him
at the January 21, 1997, Council meeting to discuss the Cedar
Neck Sewer situation.

Proposed Mr. Cole introduced the Proposed Ordinance entitled "AN
Ordinance ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY,
TO AMEND THE PROVISIONS RELATING TO DEVELOPMENT IN THE C-1
GENERAL COMMERCIAL ZONING DISTRICT AND THE B-1 NEIGHBORHOOD
BUSINESS ZONING DISTRICT, TO ADD A NEW PROVISION CREATING A
C-2 SPECIAL COMMERCIAL ZONING DISTRICT, TO AMEND THE PRO-
VISIONS RELATING TO OFF-STREET PARKING AND OFF-STREET LOADING,
AND TO BRING OTHER PROVISIONS OF CHAPTER 115 IN CONFORMITY
WITH THESE AMENDMENTS". The Proposed Ordinance will be ad-
vertised for Public Hearing.

Parking Mr. Cole requested that Mr. Lank, Director of Planning and
Require- Zoning, prepare a package of information regarding parking
ments requirements for all zoning districts.

Appeal
to
P & Z
Com-
mission
Decision

Mr. Stickels, County Administrator, discussed an appeal of the Sussex County Planning & Zoning Commission's decision to deny an application of Norris L. Niblett to consider the subdivision of land in a GR General Residential Zoning District in Little Creek Hundred by dividing 53.33 acres into 77 lots, located on the south side of Road 515, 2,065 feet west of Road 13A. (Subdivision No. 96-22 -- Bacon Grove). A Public Hearing will be scheduled for February 25, 1997, at 11:00 A.M.

Fees/
Appeals

Mr. Stickels, County Administrator, noted that a draft ordinance is being prepared to enable the County to impose fees to cover costs associated with appeal the appeal process, i.e. advertising.

M 046 97
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$500.00, \$100.00 from each Councilmanic Account, to the Sussex County Science Fair for student awards.

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

1. Pending Legislation

Included with this report are copies of two bills that were recently introduced into the House of Representatives. House Bill No. 2 is a Constitutional Amendment that provides for the employment of a Recorder of Deeds in each of the counties by the resident Superior Court Judge in each county. Enactment of this legislation will only provide for the appointment, rather than the election, of the Recorder of Deeds and will not affect the operations of the Recorder of Deeds in each county or the status of said office employees. The Recorder of Deeds would be a county employee; however, the legislation states that he or she will be appointed by the resident Superior Court Judge in each county. For this legislation to take effect, it will have to pass two sessions of the General Assembly. The earliest this legislation could go into effect would be the year 2000.

House Bill No. 14 freezes local school taxes for dwellings of residents who are 65 or older and their spouses where the total household income does not exceed \$30,000 a year. Any improvement or other increase in assessed value, however, is taxable.

Adminis-
trator's
Report
(con't)

2. New Castle County Survey of Landowners

Included with this report is an Executive Summary of a Survey of Landowners in New Castle County regarding land use issues. I thought Council may find it useful to review this document. I believe many of the issues in New Castle County are similar to ones that we are considering. I also have a copy of the entire survey if anyone wishes to review it.

3. Retirement Dinner

The Sussex County Council honored Mr. Ralph E. Benson and Mr. William D. Stevenson, Sr., on Saturday, January 25, 1997, at the Sussex Pines Country Club with a retirement dinner. Mr. Stevenson has served the Council for 16 years and Mr. Benson for 24 years. In addition to the County Council, acknowledgment of their accomplishments was also made by Senators Roth and Biden, Congressman Castle, Governor Carper, Insurance Commissioner Donna Lee Williams, State Treasurer Janet Rzewnicki, Attorney General Jane Brady, State Auditor Tom Wagner, Representatives J. Benjamin Ewing and V. George Carey, Mayor of Lewes George Smith, Sussex Conservation District Chairman William Vanderwende, Republican State Committee Vice Chairman Everett Moore, Department of Natural Resources representative Rodney Wyatt, Sussex County Paramedic Director William Stevenson, and Delaware State Police Major Joseph Forrester.

4. National Association of Counties Board of Directors

Sussex County Councilman George B. Cole was elected unanimously on Wednesday, January 22, 1997, by the Delaware Association of Counties to serve as a member of the National Association of Counties Board of Directors. Mr. Cole is the first Sussex County Councilman to be elected to this prestigious Board of Directors.

Mr. Cole will be one of only 75 elected county officials who serve on the Board of Directors nationwide. The Board meets during the year to examine issues critical to local government.

The National Association of Counties is the only national organization representing county government in the United States. Its goals are to improve county government, act as a liaison with other levels of government, present the county position on national issues, and advance public understanding of the role of the counties.

Adminis-
trator's
Report
(con't)

5. Sussex County Status Report - Fourth Quarter, 1996 - Delaware State Police

The following hours of service were compiled by the Delaware State Police in Sussex County during the months of October, November, and December:

	<u>T-4</u>	<u>T-5</u>	<u>T-7</u>
Total Hours on Duty	12,327.0	13,595.5	15,578.0
Hours Assisted Other Agencies	133.5	139.5	108
Total Traffic Arrests	2,346	3,410	2,133
Total DUI's	74	72	94
Accident Reports:			
Property Damage	218	243	274
Personal Injury	<u>42</u>	<u>70</u>	<u>80</u>
Total Accident Reports	260	313	354
Criminal Arrests:			
Felony	53	74	97
Misdemeanor	<u>337</u>	<u>278</u>	<u>501</u>
Total Criminal Arrests	390	352	598
Total 10-29 P's (wanted persons)	186	210	112
Total Number of Complaints	2,121	3,364	3,613

I was interested to see that although Troop 4 had approximately 1,200 less total duty hours than Troop 5, troopers at Troop 4 had more DUI arrests and misdemeanor arrests during the reporting period.

6. Local Government Training Session

The University of Delaware, in conjunction with the Sussex County Association of Towns, will be presenting a training session entitled "Introduction to Planning and Zoning for Local Officials". The training session will take place on Wednesday, January 29, 1997, from 3:00 to 6:00 p.m. at the Sussex Pines Country Club in Georgetown, David S. Hugg III, State Planning Coordinator, will be making a presentation.

I would like to publicly announce, in conformity with the State of Delaware Freedom of Information Act, that Sussex County Council members will be attending this workshop.

Rehoboth
Shores

Mr. Green, Director of Utility Construction, discussed granting Conditional Acceptance for the wastewater facilities constructed in Rehoboth Shores, Phase IIA.

M 047 97
Grant
Condi-
tional
Accep-
tance/
Rehoboth
Shores

A Motion was made by Mr. Cole, seconded by Mr. Collins, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, that the Sussex County Council grant Conditional Acceptance for the wastewater facilities constructed in Rehoboth Shores - Phase IIA, for Lots 1-13, 36-76, and 88-99, located on the east side of Bay Boulevard, and Lots 1-16, 25, 44-47, and 66-86, located on the west side of Bay Boulevard, and Lot 47, located at Schooner and Skipjack Lane, for a total of 109 lots, located in the Long Neck Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 048 97
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Collins, to give \$200.00 from Mr. Cole's Councilmanic Account to CBGSC Troop 168 for the purchase of camping equipment.

Motion Adopted: 5 Yea.

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

M 049 97
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$350.00, \$70.00 from each Councilmanic Account, to the Delaware Police Chiefs' Council, Inc. to permit Mr. Martin Johnson, Local Police Coordinator, to attend a meeting of the Committee of Executive Directors, International Association of Chiefs of Police Training Conference, in Washington, D.C., February 25 - March 1, 1997.

Motion Adopted: 5 Yea.

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

M 050 97
Council-
manic
Grant

A Motion was made by Mr. Jones, seconded by Mr. Collins, to give \$500.00, \$100.00 from each Councilmanic Account, to the Delaware Police Chiefs' Council, Inc. for the annual Staff Development Seminar from May 5 - 7, 1997, at the Brighton Suites Hotel, in Rehoboth Beach.

M 050 97 Motion Adopted: 5 Yea.
(con't)

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

Synopsis/ Mr. Stickels, County Administrator, advised that Mr. Jones
Proposed and Mr. Rogers have requested that, in the future, a synopsis
Ordinance be written for proposed ordinances.

Public Hearing/ A Public Hearing was held on the Proposed Ordinance entitled
Mora- "AN ORDINANCE AMENDING AN ORDINANCE IMPOSING A MORATORIUM UPON
torium APPLICATION FOR CHANGE OF ZONE DESIGNATION, ETC., BY EXTENDING
THE EXPIRATION DATE OF THE MORATORIUM ON THE SUBDIVISION OF LAND
INCLUDING RESIDENTIAL PLANNED COMMUNITIES".

Mr. Dukes proposed an amendment to the Proposed Ordinance as follows:

To permit the Planning and Zoning Commission and the County Council to take applications for major subdivisions, conditional uses, changes of zone, and residential planned communities; to lift the moratorium except for minor subdivisions; however, to allow one lot to be subdivided off with a minimum of 150 feet of road frontage and with each lot not less than one acre nor more than four acres.

Correspondence was read into the record and public comments were heard. The Public Hearing was closed.

M 051 97 Mr. Cole made a Motion to Adopt the Proposed Ordinance, as
Motion/ previously written, with an exclusion to allow one lot to be
Died subdivided off, with the lot to be a minimum of one acre (no maximum). The Motion died for the lack of a second.

Recom- Mr. Rogers expressed his support of Mr. Dukes' proposal with
mendation the exception that the Proposed Ordinance permit two lots to be subdivided off.

M 052 97 A Motion was made by Mr. Collins to Adopt the Proposed Ordinance
Motion/ as previously written and as advertised. The Motion died for the
Died lack of a second.

M 053 97 A Motion was made by Mr. Rogers, seconded by Mr. Jones, to
Adopt Adopt Ordinance No. 1126 entitled "AN ORDINANCE AMENDING AN
Ordinance ORDINANCE IMPOSING a MORATORIUM UPON APPLICATION FOR CHANGE
No. 1126 OF ZONE DESIGNATION, ETC., BY EXTENDING THE EXPIRATION DATE
To Ex- OF THE MORATORIUM ON THE SUBDIVISION OF LAND INCLUDING RESIDEN-
tend Mor- TIAL PLANNED COMMUNITIES", with the language of the Ordinance to
atorium read as follows;

M 053 97
(con't)

WHEREAS, the County Council of Sussex County did on August 27, 1996, impose a moratorium upon application for changes of zone designation, conditional uses, or the subdivision of land pending the adoption of a comprehensive land use plan, which has been extended; and

WHEREAS, the current moratorium expires January 31, 1997; and

WHEREAS, the State of Delaware has granted the County Council an extension until March 31, 1997, as permitted by State Law; and

WHEREAS, the comprehensive land use plan has been submitted to the County Planning and Zoning Commission for review and has been revised; and

WHEREAS, the County Council is now awaiting the recommendation of the County Planning and Zoning Commission; and

WHEREAS, it appears unlikely that the comprehensive land use plan will be adopted on or before March 31, 1997; and

WHEREAS, the Sussex County Council believes the existing provisions of the Sussex County Code relating to the permitting of subdivisions has a negative impact on roads and the loss of farm land; and

WHEREAS, the Planning and Zoning Commission and the County Council will hold Public Hearings on ordinances relating to changes of provisions permitting subdivisions;

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1: That Section 1 of Ordinance No. 1101 entitled "AN ORDINANCE IMPOSING a MORATORIUM UPON APPLICATION FOR CHANGES OF ZONE DESIGNATION, CONDITIONAL USES, OR THE SUBDIVISION OF LAND PENDING THE ADOPTION OF a COMPREHENSIVE LAND USE PLAN", as amended December 17, 1996, shall be amended by deleting therefrom Subsections A, B, and C, as follows:

- [A. For an amendment to zoning map changing the zoning district classification for a tract, parcel or lot of land; or
- B. For a conditional use; or
- C. For the subdivision of land.]

and substituting in lieu thereof the following:

M 053 97
(con't)

a. For any minor subdivision of more than two lots with a minimum of 150 feet of road frontage and with each lot not less than one acre nor more than four acres.

Section 2. That Section 4 of Ordinance No. 1101, referred to above, shall be amended by deleting therefrom the phrase [January 31, 1997] and substituting in lieu thereof the phrase March 31, 1997, or upon the adoption of pending amendments relating to major and minor subdivisions.

Section 3. This Ordinance shall become effective upon its adoption by a majority of all members elected to the County Council of Sussex County.

Motion Adopted: 5 Yea.

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

M 054 97 AT 12:10 p.m., a Motion was made by Mr. Cole, seconded by Mr. Jones, to recess from Regular Session and to go into Executive Session.
Recess/
Executive Session

Motion Adopted: 5 Yea.

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

Executive Session An Executive Session of the Sussex County Council was held for the purpose of discussing personnel.

M 055 97 At 1:30 p.m., a Motion was made by Mr. Jones, seconded by Mr. Collins, to recess from Executive Session and return to Regular Session.
Recess
from
Executive Session/
Return
to
Regular
Session

Motion Adopted: 5 Yea.

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

Public Hearing/
C/U
No. 1175) 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 A BARBER SHOP, BEAUTY SHOP AND AUTO STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.27 ACRES, MORE OR LESS" (Conditional Use No. 1175) filed on behalf of Thelton D. and Barbara Savage. There were no public comments and the Public Hearing was closed.

M 056 97 A Motion was made by Mr. Collins, seconded by Mr. Cole, to
Adopt Ordinance No. 1127 entitled "AN ORDINANCE TO GRANT a
Ordinance CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL
No. 1127 DISTRICT FOR a BARBER SHOP, BEAUTY SHOP AND AUTO STORAGE TO
(C/U BE LOCATED ON a CERTAIN PARCEL OF LAND LYING AND BEING IN
No. 1175) BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.27 ACRES,
MORE OR LESS" (Conditional Use No. 1175) filed on behalf of
Thelton D. and Barbara Savage, with the following conditions:

1. The area between the parking area and the Levi Hughes property shall be fenced and landscaped with shrubbery.
2. One ground sign, not exceeding 32 square feet per side or facing, may be permitted.
3. All security lighting shall be directed toward the building and away from the Levi Hughes property and Route 20.
4. The parking lot shall be paved and all spaces marked.
5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
6. The conditional use boundary shall be reduced and limited to the front 200 feet depth from Route 20, approximately 0.82 acre.
7. No outside storage of vehicles or materials shall be permitted.

Motion Adopted: 5 Yea.

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

Findings of Fact The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the conditional use will have no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.
2. The applicant established by substantial evidence that a clear need exists for the services offered.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 056 97 A Motion was made by Mr. Rogers, seconded by Mr. Cole, to
Recess/ recess from Regular Session and to go back into Executive
Executive Session.
Session

Motion Adopted: 5 Yea.

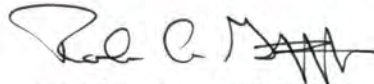
Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea; Mr. Collins, Yea;
Mr. Dukes, Yea

Executive The Executive Session of the Sussex County Council continued
Session for the purpose of discussing personnel.

M 057 97 At 2:10 p.m., a Motion was made by Mr. Collins, seconded by
Recess Mr. Jones, to recess the Executive Session and to adjourn the
Executive meeting.
Session/
Adjourn Motion Adopted: 5 Yea.
Meeting

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

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council