

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 16, 1999

Call to Order The regular meeting of the Sussex County Council was held Tuesday, February 16, 1999, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

M 087 99 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve Approve Agenda the Agenda with an amendment to the order of the Public Hearings scheduled for 1:30 p.m., as follows:

Change of Zone No. 1364
Northeast Bel Corp.

Conditional Use No. 1267
Orville D. and Ida Syester

; and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 088 99 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to approve Approve Minutes the minutes of the previous meeting, dated February 9, 1999.

Motion Adopted: 5 Yea.

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

Correspondence

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

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW JERSEY.

RE: Notice of Determination Regarding the Assimilative Capacity of the Tidal Delaware River for Toxic Pollutants; Public Hearings.

DELAWARE NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, UNDERGROUND STORAGE TANK BRANCH, NEW CASTLE, DELAWARE.

RE: Notice of a Risk-Assessment Workshop for Underground Storage Tank Contractors and Consultants.

GOOD SAMARITAN AID ORGANIZATION, INC., LAUREL, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

SUSSEX COUNTY ASSOCIATION OF TOWNS, GEORGETOWN, DELAWARE.

RE: Change in venue for the SCAT meetings as requested by Richard Stone, Mayor of Laurel.

Hollinet Acceptable Use Policy

Mr. Stickels, County Administrator, and Ms. Fitzgerald, County Librarian, discussed a proposed policy entitled the Hollinet Acceptable Use Policy. Hollinet provides access to electronic information resources through the Internet to all Sussex County Library System card holders in good standing. Internet access is provided through a contractual agreement between the Delaware Department of State and the Delaware Technical and Community College. The Policy stipulates guidelines by which card holders can access the Internet.. Concern was expressed over the controversial material that can be accessed on the Internet. Ms. Fitzgerald advised that filtering products are being considered; however, filtering all terminals is not permissible.

M 089 99 Adopt Hollinet Acceptable Use Policy

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt the Hollinet Acceptable Use Policy.

Motion Adopted: 5 Yea.

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

Inter-governmental Coordination Agreement

Mr. Stickels, County Administrator, discussed a proposed policy entitled "A POLICY CREATING AN INTERGOVERNMENTAL COORDINATION AGREEMENT". This proposed policy addresses an issue that was discussed during the Land Use Plan process. The Land Use Plan suggests that the County consider intergovernmental coordination by ordinance so that it is required. The Land Use Plan Advisory Committee and the Sussex County Council have decided that this issue should be addressed by way of Policy and not by Ordinance.

The purpose of this Policy is to establish intergovernmental coordination with municipalities and requirements for the notice, review, and consideration of County or municipal land use activities. The County realizes that not all municipalities may desire to participate in intergovernmental coordination concerning land use activities and decisions and for this reason, this Policy, if adopted, will be voluntary and can be modified to fit the needs of each municipality.

~~M 090 99~~ A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt the
~~Adopt~~ Policy entitled "A POLICY CREATING AN INTERGOVERNMENTAL COORDINATION AGREEMENT".
~~Inter-governmental Coordination Agreement~~
~~Motion Adopted: 5 Yea.~~
~~Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;~~
~~Mr. Dukes, Yea; Mr. Rogers, Yea;~~
~~Mr. Jones, Yea~~

Minutes Amended 2-23-99

Inter-governmental Coordination Agreement

Mr. Stickels, County Administrator, and Mr. Abbott, Assistant Director of Planning & Zoning, will meet with each town to discuss the Intergovernmental Coordination Policy and to provide them with a copy of the Policy. Copies of the Policy will also be provided to members of the Comprehensive Land Use Plan Oversight Advisory Committee.

Administrator's Report

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

1. Open House

The Sussex County Council will be hosting an Open House on Wednesday, March 3, 1999, at the County's West Complex located at West Market Street and DuPont Highway, Georgetown, Delaware. The Open House will take place for the general public from 1:30 to 5:00 p.m. Light refreshment will be offered.

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Inter-
governmental
Coordination
Agreement

Mr. Stickels, County Administrator, discussed a proposed policy entitled "A POLICY CREATING AN INTERGOVERNMENTAL COORDINATION AGREEMENT". This proposed policy addresses an issue that was discussed during the Land Use Plan process. The Land Use Plan suggests that the County consider intergovernmental coordination by ordinance so that it is required. The Land Use Plan Advisory Committee and the Sussex County Council have decided that this issue should be addressed by way of Policy and not by Ordinance.

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Adminis-
trator's
Report
(con't)

The West Complex was constructed as the corporate headquarters for Sussex Trust banking. When Sussex Trust was purchased by Wilmington Trust, the facility was used for administrative offices. Wilmington Trust offices have been relocated to their new bank on the adjacent parcel. The County has renovated the building and relocated the County's Economic Development Office, Community Development and Housing Division, and Sheriff's Office to the office space that was occupied by Wilmington Trust.

2. Public Workshop – Delaware Department of Transportation

The Delaware Department of Transportation (DelDOT) will be conducting a Public Workshop for the State Route 1 Grid Concept on Thursday, February 25, 1999, from 4:00 p.m. to 8:00 p.m. at the Rehoboth Elementary School, Cafeteria, located at 500 Stockley Street, Rehoboth Beach, Delaware. The purpose of the workshop is to bring interested members of the community up-to-date on the results of the first phase of the study and to solicit comments as the improvements suggested in Phase I of the study move to the next phase. I would encourage residents and business owners of the area to attend this workshop.

Proposed
Bay View
Estates
Sanitary
Sewer
District/
Report on
Petitions

Mr. Archut, Assistant County Engineer, reported on petitions received from residents of Bay View Estates to submit the question of organizing a sanitary sewer district in the Bay View Estates area to a referendum vote. Following the validation of each petition received, it was determined that of the 78 petitions received, 74 are valid. Mr. Archut noted that the Bay View Estates residents previously petitioned the Council in 1987, at which time the County proceeded with the referendum and public hearing process. The project was ultimately postponed for further study. Mr. Archut recommended that a date be established for a Public Hearing on the Proposed Boundaries of the Bay View Estates Sanitary Sewer District. Prior to the Public Hearing, the old studies will be reviewed and new studies conducted. Although this was not a Public Hearing, residents of the Bay View Estates area addressed Council on their need and desire to obtain sanitary sewer service in their development.

Mr. Cole noted that part of the Bay View Estates development is located in Maryland. He recommended that residents living outside of Sussex County who receive sanitary sewer service from the County should pay a premium.

M 091 99
Schedule
Public
Hearing/
Proposed
Bay View
Estates
Sanitary
Sewer
District

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based on the receipt of petitions submitted pursuant to 9 Del.C. §6503, the Sussex County Council hereby sets a date and time of August 28, 1999, at 9:30 a.m. for a Public Hearing on the boundaries of the Proposed Bay View Estates Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Public
Hearing/
Real
Property
Tax
Exemption
for Senior
Citizens

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 103, ARTICLE II, OF THE SUSSEX COUNTY CODE RELATING TO REAL PROPERTY TAX EXEMPTION FOR SENIOR CITIZENS". Mr. Parker, Director of Assessments, provided information on the County's tax base: (1) average school and county tax by school district, (2) assessment comparisons with other counties/cities/towns in Delaware, Maryland, Virginia, and Pennsylvania, (3) analysis of exempt caps and assessments for tax years 1988 – 1989 to 1998 – 1999, (4) exemption analysis, (5) tax exemption estimated costs for changes, (6) school tax analysis, and (7) tax rate changes (school districts).

The Public Hearing was opened up to public comment. Comments were heard in support of and in opposition to the Proposed Ordinance.

Support
of Proposed
Ordinance

Mr. Phillips reiterated his reasons for supporting this Proposed Ordinance. He expressed his belief that "the stream of cash coming into the Sussex County Government is consistent" and "projections of growth in the County for the next century, at least the early part of the next century, nearly guarantees that we are going to have continued growth in our revenue base". He noted that although County tax rates have not been raised since 1989, revenues have been increased by raising other taxes and fees, i.e. transfer tax and building fees, and that these increases affect everyone in the County. Mr. Phillips expressed his belief that "We are a healthy County with revenue to spare." He stated that the County Administrator concurs with him that the \$39,000 that the inflation adjustment would cost the County is something that won't adversely affect the budgetary process. He noted that twice in the past, in 1977 and 1986, the County Council understood that inflation pressures put a burden on senior citizens on a very limited income and action was taken to increase tax exemptions.

M 092 99
Adopt
Proposed
Ordinance/
Tax
Exemption
for Senior
Citizens
(Denied)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 103, ARTICLE II, OF THE SUSSEX COUNTY CODE RELATING TO REAL PROPERTY TAX EXEMPTION FOR SENIOR CITIZENS".

Motion Adopted: 4 Nay, 1 Yea.

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

Reasons
for Vote
on Proposed
Ordinance
Relating to
Tax
Exemption
for Senior
Citizens

Mr. Cole commented that he does feel there is a need for tax relief. Further, he commented that he would like to work with Mr. Phillips on this Proposed Ordinance to include all needy people and not just senior citizens. Mr. Cole stated that he believes that this would provide the best tax relief for citizens of Sussex County. Mr. Cole also expressed concern on the issue regarding the County's authority to adopt this Proposed Ordinance and he feels this issue needs to be resolved. In addition, Mr. Cole referred to the Bills introduced last year in the General Assembly which, if passed, will provide tax relief for all citizens

Mr. Dukes also referred to the pending Senate and House Bills that will provide tax relief to Delaware residents. Mr. Dukes noted that he urged Council not to proceed with this Proposed Ordinance because of the costs (\$3,000) involved in the Public Hearing process. Mr. Dukes emphasized that the County's taxes are very low; taxes in Sussex County are 11 percent less than Kent County and 78 percent less than New Castle County. Mr. Dukes noted that the County is in its ninth budget year without raising property taxes. He acknowledged that user fees have been assessed and the transfer tax was raised by a half of a percent; however, the State lowered theirs a half a percent to give the County more of the transfer tax funds.

Mr. Rogers noted that he has not heard from his constituency to ask for his support of this Proposed Ordinance. He stated that he feels some programs will suffer if taxes are cut and he feels Council should await the General Assembly's action on the pending Bills relating to tax relief.

Mr. Jones expressed his concern about the Council's legal authority to proceed with this Proposed Ordinance. Mr. Jones stated he feels that most complaints relating to taxes are in fact, complaints relating to school taxes. Mr. Jones stated that he feels that Council's efforts should be directed towards getting the General Assembly to act on the pending Bills relating to tax relief.

- Absence Mr. Rogers left the meeting at this time.
- Hunters Run Extension Mr. Archut, Assistant County Engineer, advised Council of a request to extend the Bethany Beach Sanitary Sewer District boundaries to include Hunter's Run.
- M 093 99 Prepare and Post Notices/ Hunters Run Extension of the Bethany Beach SSD A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Bethany Beach Sanitary Sewer District boundaries to include Hunter's Run.
Motion Adopted: 3 Yea, 1 Abstention, 1 Absent.
Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Abstained;
Mr. Dukes, Yea; Mr. Rogers, Absent;
Mr. Jones, Yea
- M 094 99 Amend Agenda A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the Agenda by deleting "Old Business: Change of Zone No. 1357, Kenneth Woodring". This Agenda item was deleted due to time constraints and will be placed on the Agenda for February 23, 1999.
Motion Adopted: 4 Yea, 1 Absent.
Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Absent;
Mr. Jones, Yea
- M 095 99 Recess At 12:40 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.
- Reconvene Mr. Jones called Council back into session at 1:35 p.m.
- Proposed Ordinance Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL CONTRACTORS OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,250 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1280) filed on behalf of Apple Electric, Inc. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AMENDMENT TO CONDITIONAL USE NO. 783 TO ALLOW FOR SALE OF CAMPERS, MANUFACTURED HOMES AND DISMANTLING OF MANUFACTURED HOMES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 5.28 ACRES, MORE OR LESS" (Conditional Use No. 1281) filed on behalf of Leonard W. Murphy. The Proposed Ordinance will be advertised for Public Hearing.

Order of Public Hearings

The applicant for Change of Zone No. 1364, Northeast Bel Corp., was not in attendance and for this reason, the Public Hearing for Conditional Use No. 1267, Orville D. and Ida Syester was held first.

Public Hearing C/U No. 1267

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 AUTO BODY REPAIR AND PAINT SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.00 ACRES, MORE OR LESS" (Conditional Use No. 1267) filed on behalf of Orville D. and Ida Syester. The applicants were present and addressed Council on their application. Public comments were heard from one area resident who is not opposed to the use, but has concerns since he has smelled paint odors at his residence. The Public Hearing was closed and action was deferred for Council to review the Public Hearing record.

Public Hearing C/Z No. 1364

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.75 ACRES, MORE OR LESS" (Change of Zone No. 1364) filed on behalf of Northeast Bel Corp. There were no public comments and the Public Hearing was closed.

M 096 99 Adopt Ordinance No. 1288

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt Ordinance No. 1288 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN

M 096 99
(con't) PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUDNRED, SUSSEX COUNTY, CONTAINING 1.75 ACRES, MORE OR LESS (Change of Zone No. 1364) filed on behalf of Northeast Bel Corp.

Findings
of Fact Motion Adopted: 4 Yea, 1 Absent.

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

The Council found that the change of zone was appropriate legislative action based on the following findings of fact:

1. The applicant, by his representative established by substantial evidence that the change of zone will result in a downzoning, consistent with the purposes and goals of the Comprehensive Land Use Plan, to preserve agricultural lands.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Letter/
Delaware
State
Police Mr. Jones advised Council of a letter he received, dated February 12, 1999, clarifying the position of the Delaware State Police regarding the Sussex County Council's interest in purchasing a mobile command post center.

Public
Workshop
Minutes Mr. Cole requested that the minutes of the February 4, 1999 Public Workshop be placed on the Agenda for discussion and action. Mr. Stickels, County Administrator, advised that this would be placed on the Agenda for the March 9, 1999 Council meeting.

SCAT/
Method
of Holding
Meetings Mr. Jones referred to the memo read into the record from Mayor Baunchalk of the Town of Fenwick Island addressed to all mayors who are members of the Sussex County Association of Towns and to Sussex County Council. The memo refers to a letter from Richard Stone, Mayor of Laurel, stating his reasons for wanting a change in venue for the SCAT meetings. Mayor Baunchalk reported that it is the opinion of the Steering Committee of SCAT that the current method of operation is successful. It was the consensus of Council that SCAT continue with the current method of scheduling and holding meetings.

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M 097 99
Support
SCAT
Meetings
Remaining
the Same

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Association of Towns continue with their current method of scheduling and holding meetings.

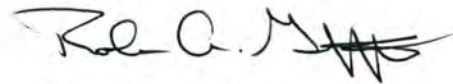
Motion Adopted: 5 Yea.

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

M 098 99
Adjourn

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

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council