

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-FEBRUARY 27, 1990

Call to  
Order

The regular meeting of the Sussex County Council was held on Tuesday, February 27, 1990, at 10:00 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 098 90  
Approval  
of Minutes

A Motion was made by Mr. Mariner, 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:

ALICE BRUCE, SECRETARY, SUSSEX COUNTY VOLUNTEER AMBULANCE ASSOCIATION  
RE: Seeking financial assistance to send six (6) of their officers and members to "EMS Care 90" to be held in Millerville, Maryland.

ALICE BRUCE, ASSISTANT SECRETARY, SUSSEX COUNTY FIREMEN'S ASSOCIATION  
RE: Seeking financial assistance in sending their President to the Fire Department Instructors Conference to be held in Cincinnati, Ohio.

DNREC  
Transfer  
Stations  
Amendments

Mr. Stickels, County Administrator, reviewed "Transfer Stations Amendments to Regulations Governing Solid Waste" as prepared by the Department of Natural Resources and Environmental Control. Added costs for bringing the County Transfer Stations into compliance with these regulations will be considered at the upcoming budget hearings.

Holding Tank  
Permit Fees-  
South Coastal  
Planning Area

Mr. Stickels, County Administrator, discussed the Proposed Resolution concerning fees for holding tank permits issued in the South Coastal Planning Area to be treated at the South Coastal Regional Wastewater Facilities. The proposal was discussed at the February 20th meeting and action was tabled.

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Holding Tank Permit Fees-South Coastal Planning Area (Continued) Mr. Cole questioned issuing permits for holding tanks in the moratorium area for apartment buildings, restaurants, and motels. The possibility that the present fee structure encourages this type development was suggested by Mr. Cole.

Proposed Resolution/Holding Tank Permit Fees-South Coastal Planning Area Mr. Jones, Assistant County Attorney, read in its entirety the Proposed Resolution entitled "PROVIDING FOR FEES FOR HOLDING TANK PERMITS ISSUED IN THE SOUTH COASTAL PLANNING AREA TO BE TREATED AT THE SOUTH COASTAL REGIONAL WASTEWATER FACILITIES".

M 099 90 Adopt Resolution No. R 010 90 (Holding Tank Permit Fees-South Coastal Planning Area) A Motion was made by Mr. Dukes, seconded by Mr. Mariner, to Adopt Resolution No. R 010 90 entitled "PROVIDING FOR FEES FOR HOLDING TANK PERMITS ISSUED IN THE SOUTH COASTAL PLANNING AREA TO BE TREATED AT THE SOUTH COASTAL REGIONAL WASTEWATER FACILITIES". Motion Adopted: 4 Yea; 1 Nay.  
Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Nay;  
Mr. Dukes, Yea; Mr. Mariner, Yea;  
Mr. Stevenson, Yea

M 100 90 Holding Tank Permit Fees (Motion Died) A Motion was made by Mr. Cole that a Resolution revising the fee structure for holding tank permits for wastewater treatment be prepared. The Motion died for lack of a second.

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

1. The Senate and House Agriculture Committees will be conducting a workshop concerning House Bill No. 484. This legislation addresses Agricultural Districts and purchase of development rights. Mr. Lank, Director of Planning and Zoning, will be attending the workshop.
2. Presently, fifty-nine (59) tutors have registered with the Department of Libraries to assist in the Adult Literacy Program. There are seventy (70) students registered for the program. Christel Shumate, Literacy Coordinator, recently attended a Literacy Conference in Washington, D.C.
3. The Sussex County Association of Towns (SCAT) meeting will be held March 7th at the Lamp Post Restaurant, Rehoboth-Lewes Highway.
4. The Delaware Solid Waste Authority will hold a public hearing regarding proposed rates for Fiscal '91 on Wednesday, February 28th, in Dover.

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Adminis-  
trator's  
Information  
Report  
(Continued)

5. A request for a workshop on Tuesday, March 6th, starting at 1:30 p.m. in the Council Chambers. The purpose of the workshop will be to discuss recommendations made by Black & Veatch relating to debt service billing, collection and transmission and treatment allocation factors, and impact assessments. Representatives from Accounting, Planning and Utility Billing will be asked to participate in the workshop.

At this time, revised fees for holding tank permits could be discussed.

Public  
Hearing/  
FmHA  
Housing  
Preservation  
Grant  
Program

A Public Hearing was held to give all citizens an opportunity to participate in the development of a preapplication to the U. S. Department of Agriculture, Farmers Home Administration, for a grant under Section 533 of the Housing Act of 1949, 42 U.S.C. 1490(M), as amended, and known as the Housing Preservation Grant (HPG) Program.

The primary objective of the HPG Program is the development of viable rural communities, including decent housing and a suitable living environment, principally for persons of low and very low income. Additional objectives include alleviating or removing health or safety hazards of homes, meeting applicable development standards or making needed repairs to improve the general living conditions of the residents, including improved accessibility by handicapped persons. Comments will be accepted for fifteen (15) days, until March 14, 1990.

C/U #928

Conditional Use No. 928, filed on behalf of Jeffrey S. Todd, was discussed. Public Hearing was held on February 13, 1990 and action was deferred.

M 101 90  
Adopt  
Ordinance  
No. 661  
(C/U #928)

A Motion was made by Mr. Dukes, seconded by Mr. Stevenson, to Adopt Ordinance No. 661 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT BY AMENDING CONDITIONAL USE NO. 413 FOR A MEDICAL OFFICE BUILDING BY EXPANSION OF A TANNING SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 1.85 ACRES, MORE OR LESS" (C/U #928) filed on behalf of Jeffrey S. Todd with the following stipulations:

1. Hours of operation - Monday through Saturday - 8:30 a.m. to 8:30 p.m.
2. All lights shall be shielded to reflect or direct light away from adjoining property and roadways.

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M 101 90  
(Continued)

3. No more than twenty (20) parking places shall be constructed.
4. Building will be limited to one doctor's practice, seven tanning beds, and one tanning stall.
5. Two refuse storage containers shall be placed in the parking area.
6. Parking drainage shall be controlled as to not allow runoff to adjacent properties.
7. One new unlit sign shall be allowed, not to exceed thirty-two (32) square feet per facing.

Motion Adopted: 4 Yea; 1 Nay.

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

Findings  
of Facts  
C/U #928

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. The Council found that the conditional use is of a public or semi-public character and is essential and desirable for the general convenience and welfare, but because of the nature of the use, the importance of relationship to the Comprehensive Plan, and possible impact, not only on neighboring properties but on a large section of the County, require the exercise of planning judgment on location and site plan. The Council found that the proposed use, continuation of a medical arts building together with the addition of a tanning salon, would have no greater impact on the area than the existing medical arts building. However, in order to ensure that the conditional use does not negatively impact upon surrounding properties, the stipulations as set out in Motion No. M 101 90 are attached to the conditional use.

Bid  
Openings

Mr. Wood, County Engineer, opened bids for the following projects:

**INDUSTRIAL AIRPARK FIRE PUMP ADDITION**

L. A. Merrill Construction Co., Inc. \$ 418,000.00

**LONG NECK SANITARY SEWER DISTRICT, CONTRACT NO. 4**

R. J. Longo Construction Co. \$5,583,445.00

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Bid  
Openings  
(Continued)

**LONG NECK SANITARY SEWER DISTRICT, CONTRACT NO. 4 (Continued)**

Lisbon Contractors, Inc.	\$5,966,518.00
Northeast Commonwealth, Inc.	5,233,060.00
Teal Construction, Inc.	4,262,262.00
Ernest Renda Contracting Co., Inc.	3,873,357.00
On Shore Construction & Engineering Corps	6,041,029.00

**LONG NECK SANITARY SEWER DISTRICT, CONTRACT NO. 5**

George Tripp, Inc.	\$2,755,920.00
R. J. Longo Construction Co.	2,789,440.00
Lisbon Contractors, Inc.	3,453,085.00
Cruz Construction Co.	2,824,069.00
L. A. Merrill Construction Co., Inc.	2,810,133.73
Northeast Commonwealth, Inc.	2,949,840.00
Teal Construction, Inc.	2,440,440.00
Willow Oak, Inc.	2,487,222.50
Brady Contracting Co., Inc.	3,669,857.00
Conn-E Construction Co.	2,879,976.00
James Julian, Inc.	3,235,553.50
Ernest Renda Contracting Co., Inc.	2,181,095.00
On Shore Construction & Engineering Corps	2,375,000.00

**LONG NECK SANITARY SEWER DISTRICT, CONTRACT NO. 6**

Lisbon Contractors, Inc.	\$8,485,000.00
Kuhn Construction	5,363,000.00
James Julian, Inc.	5,870,000.00
Thomas P. Carney	5,842,961.00
MMR/Wallace Contractors	7,287,000.00
McElwee - Scarborough Construction	5,929,000.00
George & Lynch, Inc.	5,950,000.00
L. A. Merrill Construction Co., Inc.	5,134,800.00
Reiter Construction	6,540,000.00
R. J. Longo Construction Company	9,452,000.00

All bids will be reviewed and a recommendation made at a later date.

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Sussex  
Shores  
Water  
Company  
Request

Mr. James Griffin, Legal Counsel for Sussex Shores Water Company, requested Council's consideration and possible modification of the February 23, 1990 Planning & Zoning Commission's decision denying an Amendment to Sussex Shores Site Plan for Conditional Use No. 24.

Mr. Griffin based his Appeal of the Planning and Zoning Decision for Sussex Shores Water Company on the following information. The water company did not understand that it needed a building permit to erect the elevated water storage tank which is currently within two weeks of completion. Minor amendments to a site plan can be made without a public hearing provided that it is not in conflict with the requirements of the ordinance, there is no change in the general character of the conditional use, no appreciable effect on adjoining property, does not result in any substantial change of major external access points, and does not decrease the minimum specified building setback requirements. This tower is the only change being made on the site and is being constructed with an approximate seventy-five (75) foot setback, whereas only a forty (40) foot setback is required. The failure to obtain a building permit as required was clearly admitted and the willingness of Sussex Shores to pay the monetary fine provided under the ordinance for such failure was made.

M 102 90  
Amend Site  
Plan for  
C/U #24  
(Sussex  
Shores  
Water  
Company)

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, to Amend the Site Plan for Conditional Use No. 24 for Sussex Shores Water Company and grant them the privilege of continuing work toward the completion of the water tower. Motion Adopted: 4 Yea; 1 Nay.

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

M 103 90  
Authorize  
Prosecution  
Proceedings/  
Sussex Shores  
Water Company

A Motion was made by Mr. Benson, seconded by Mr. Dukes, authorizing Mr. Jones, Assistant County Attorney, to begin prosecution proceedings against Sussex Shores Water Company for the building permit violation and to ask the Public Service Commission to not allow the fine to be passed on through fees to the users. Motion Adopted: 5 Yea.

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

M 104 90  
Recess

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, to recess at 12:40 p.m. Motion Adopted by Voice Vote.

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Reconvene

President Stevenson called the Council back into session at 1:57 p.m. with apologies for being late due to an overrun of the morning session.

Public  
Hearing  
C/Z #1049

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.03 ACRES, MORE OR LESS" (C/Z #1049) filed on behalf of Irvin Forrest and Ronald Adams.

M 105 90  
Adopt  
Ordinance  
No. 662  
(C/Z #1049)

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, to Adopt Ordinance No. 662 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.03 ACRES, MORE OR LESS" (C/Z #1049) filed on behalf of Irvin Forrest and Ronald Adams. 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 #1049

The findings of facts and 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. The Council determined that a B-1 zoning change, a lesser included zoning classification of a C-1 zone, would be appropriate, since the applicants could operate their anticipated antique business in a B-1 District.
2. The proposed land use promotes the convenience, order, prosperity, and welfare of the present and future inhabitants of Sussex County in that the site adjoins an existing commercial site and no negative impact on surrounding parcels is anticipated. Furthermore, a barn on the site currently is used for antique sales as a nonconforming use.
3. Additional traffic generation will be insignificant.

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Public  
Hearing  
C/Z #1050

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 21.76 ACRES, MORE OR LESS" (C/Z #1050) filed on behalf of Reed Trucking Co., Inc.

M 106 90  
Adopt  
Ordinance  
No. 663  
(C/Z #1050)

A Motion was made by Mr. Benson, seconded by Mr. Dukes, to Adopt Ordinance No. 663 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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 21.76 ACRES, MORE OR LESS" (C/Z #1050) filed on behalf of Reed Trucking Co., Inc. 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/Z #1050

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 its service to agricultural industry complies with the provisions of the County Land Use Plan.

Public  
Hearing  
C/Z #1051

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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9,900 SQUARE FEET, MORE OR LESS" (C/Z #1051) filed on behalf of Robert and Mary Anne Dillon.

M 107 90  
Adopt  
Ordinance  
No. 664  
(C/Z #1051)

A Motion was made by Mr. Mariner, seconded by Mr. Dukes, to Adopt Ordinance No. 664 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1

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M 107 90  
(Continued)

AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9,900 SQUARE FEET, MORE OR LESS" (C/Z #1051) filed on behalf of Robert and Mary Anne Dillon. 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/Z #1051

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.

Public  
Hearing  
C/Z #1052  
(Action  
Deferred)

A Public Hearing was held on 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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 23,502 SQUARE FEET, MORE OR LESS" (C/Z #1052) filed on behalf of Richard W. Shaubach, Sr. The Public Hearing was closed and action was deferred.

C/Z #1053

The Public Hearing scheduled for Change of Zone No. 1053, filed on behalf of Glenn H. Griffin and Linda R., was not held due to failure of the applicants, or agent on behalf of the applicants, to appear.

M 108 90  
Require  
Applicants  
of C/Z #1053  
to Reapply  
for Zoning  
Request

A Motion was made by Mr. Dukes, seconded by Mr. Cole, that the applicants for Change of Zone No. 1053, Glenn H. Griffin and Linda R., be required to reapply for their zoning request and pay a full filing fee for the readvertising and scheduling of a new hearing due to Council policy which states the applicant, or agent on behalf of the applicant, must appear at all hearings regarding the zoning request. Motion Adopted: 5 Yea.

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M 108 90  
(Continued)

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

Public  
Hearing/  
Ordinance  
Amending  
Ordinance  
No. 97

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, TO PROVIDE FOR DRY STACK BOAT STORAGE FACILITIES AS A CONDITIONAL USE IN CERTAIN ZONING DISTRICTS".

M 109 90  
Adopt  
Ordinance  
No. 665  
(Amending  
Ordinance  
No. 97)

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Ordinance No. 665 entitled "AN ORDINANCE TO AMEND ORDINANCE NO. 97, AS AMENDED, SUSSEX COUNTY COMPREHENSIVE ZONING ORDINANCE, TO PROVIDE FOR DRY STACK BOAT STORAGE FACILITIES AS A CONDITIONAL USE IN CERTAIN ZONING DISTRICTS". 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/  
Ordinance  
No. 665  
(Amending  
Ordinance  
No. 97)

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. The Council found that dry stack boat storage facilities provide a method for storage of boats which is potentially more environmentally sound than in-water boat storage. The Council found that dry stack boat storage facilities located in areas with increasing resort populations and which provide easy access to waterways are considered to be of a public or semi-public character and essential and desirable for the general convenience and welfare.

Public  
Officials  
and Employees  
Liability  
Insurance

Councilman Benson questioned the possibility of Sussex County acquiring Public Officials and Employees Liability Insurance for all elected and appointed officials on an individual basis. Mr. Stickels, County Administrator, was directed to look into this matter and report back to Council at a later date.

Concerns  
Regarding  
Campgrounds

Councilman Benson stated he has received several calls regarding the attachment of porches to campers in area campgrounds. Mr. Lank, Director of Planning and Zoning, advised Council that Ordinance No. 97 permits sheds, wooden decks at grade, and screen houses manufactured for camping purposes, but does not allow for the construction of any permanent type structures. The majority of campgrounds in Sussex County close certain months each year, but many

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Concerns  
Regarding  
Campgrounds  
(Continued)

units are stored by campground owners and permitted to stay year-round. Since these units are not permanently affixed, individual owners of the units are not taxed. Concern was expressed that the term "campground" is not clearly defined and regulations regarding campgrounds need to be established (for example, imposing limitations on the length of time a unit can remain). It was agreed that Mr. Lank is to contact campground owners in Sussex County and invite them to participate in a meeting to be held on Thursday, March 22, 1990, as part of Council's regular session, to discuss concerns which have been expressed.

M 110 90  
Adjournment

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to adjourn at 3:16 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

*Doris E. Rogers/jw*

Doris E. Rogers  
Clerk of the County Council