

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 12, 1996

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, March 12, 1996, at 10:00 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware, with the following members present:

|                           |                |
|---------------------------|----------------|
| Dale R. Dukes             | President      |
| George J. Collins         | Vice President |
| Ralph E. Benson           | Member         |
| George B. Cole            | 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 102 96      A Motion was made by Mr. Collins, seconded by Mr. Benson, to Approve Agenda      approve the Agenda, as presented. Motion Adopted by Voice Vote.

M 103 96      A Motion was made by Mr. Collins, seconded by Mr. Cole, to Approve Minutes      approve the minutes of the previous meeting dated February 27, 1996. Motion Adopted by Voice Vote.

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

JAY E. MASON, MANAGER, CORPORATE RELATIONS, CORPORATE COMMUNICATIONS, DELMARVA POWER, SALISBURY, MARYLAND.  
RE: Reconstruction of an existing transmission line to increase the power from 69 kilovolts (kV) to 138 kV located between the Bethany Substation in Bethany and the 138th Substation in North Ocean City.

F. MICHAEL PARKOWSKI, PRESIDENT, DELAWARE STATE BAR ASSOCIATION, WILMINGTON, DELAWARE.  
RE: Response to Mr. Dukes' letter of February 13, 1996, regarding House Bill No. 408.

SKIP VALLIANT, LIASON, SUSSEX COUNTY ASSOCIATION OF REALTORS, BETHANY BEACH, DELAWARE.  
RE: Letter regarding the Sussex County Association of Realtors' request that he act as the County liason to County Council.

TRAP POND PARTNERS, LAUREL, DELAWARE.  
RE: Letter in appreciation of Council's contribution in support of "March for Parks".

CITIZENS ADVISORY COMMITTEE, DELAWARE'S INLAND BAYS ESTUARY PROGRAM, JIM ALDERMAN, CHAIRMAN, NASSAU, DELAWARE.  
RE: Letter commending the County Council's efforts toward the creation, construction, and successful implementation of the West Rehoboth Sewer District.

Corre-  
spondence  
(con't)

ROY L. HAZZARD, SCSEP DIRECTOR, FIRST STATE COMMUNITY ACTION AGENCY, INC., GEORGETOWN, DELAWARE.

RE: Invitation to attend an "Employ the Older Worker" Awards Day celebration on Tuesday, March 12, 1996.

JOAN N. LARRIVEE, DEPUTY STATE HISTORIC PRESERVATION OFFICER, STATE OF DELAWARE, DEPARTMENT OF STATE, DIVISION OF HISTORICAL AND CULTURAL AFFAIRS, HISTORIC PRESERVATION OFFICE, DOVER, DELAWARE.

RE: Letter informing Council that the Baltimore Mills Archaeological District will be considered by the Delaware State Review Board for Historic Preservation for nomination to the National Register of Historic Places. The Review Board meeting at which the nomination will be considered is scheduled for April 8, 1996.

WAYNE C. BASTIAN, ED. D., SUPERINTENDENT, DELMAR SCHOOL DISTRICT, DELMAR, DELAWARE.

RE: Letter to Mr. Collins in appreciation of his Councilmanic Grant in support of the placement of cellular phones in the Delmar School District buses.

CAROLYN UHLIG, MANAGER OF SPECIAL EVENTS, AMERICAN CANCER SOCIETY, NEW CASTLE, DELAWARE.

RE: Letter to Mr. Collins in appreciation of his Councilmanic Grant in support of the "Pink Ribbon Cancer Classic".

PHYLLIS M. MCKINLEY, EXECUTIVE DIRECTOR, FIRST STATE MANUFACTURED HOUSING, DOVER, DELAWARE.

RE: Letter in appreciation of Council attending the Skyline Homes factory tour on March 7, 1996.

Fiscal  
1995  
Audit  
Report

Mr. Baker, Finance Director, presented to Council the County of Sussex, Delaware, Audited Financial Statements and Additional Information for the Year Ended June 30, 1995. In attendance to discuss the Audit Report and to answer questions raised by Council were Elaine Graves and Truitt Jefferson of Jefferson, Urian, Doane & Sterner, P.A., the County's auditors. Mr. Baker reviewed and highlighted areas of the report for Council's information. The Audit Report expressed the unqualified opinion of Jefferson, Urian, Doane & Sterner, P.A. that "the general purpose financial statements referred to above present fairly, in all material respects, the financial position of the County of Sussex, Delaware, as of June 30, 1995, and the results of its operations and the cash flows of its proprietary and similar trust funds for the year then ended in conformity with generally accepted accounting principles". The Report indicates that during Fiscal 1995, the County's General Fund experienced the fifth straight year in a positive position with an excess of revenues over expenditures.

M 104 96 A Motion was made by Mr. Cole, seconded by Mr. Collins, to Authorize authorize an Executive Session to be held in the County Council Executive Chambers on Tuesday, March 12, 1996, at 11:05 a.m., or as soon Session thereafter as possible, for the purpose of discussing pending litigation.

Motion Adopted: 5 Yea.

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

NACo  
Con-  
ference  
Report

Mr. Stickels, County Administrator, advised that members of the County Council and County staff met with Senator Biden, Representative Castle, and staff of Senator Roth's office, during the recent National Association of Counties Legislative Conference held in Washington D.C. to discuss Federal issues pertinent to Sussex County. During this meeting, discussions were held regarding the County's four areas of concern pertaining to 1996 legislative priorities, as follows: (1) reauthorization of the Construction Grant Program for water and wastewater infrastructure, (2) Rural Development Reform Act of 1995, (3) United States Environmental Protection Agency's Superfund billing practices, and (4) the Immigration and Naturalization Service.

Proposed  
Resolu-  
tion/  
Action  
Plan

Mr. Stickels, County Administrator, discussed a Proposed Resolution entitled "ACTION PLAN RECOGNIZING THE EXPANDING IMMIGRATION POPULATION OF SUSSEX COUNTY, DELAWARE". This Proposed Resolution was previously discussed by Council on February 20, 1996, at which time a Motion to adopt the Proposed Resolution failed. The Proposed Resolution, drafted by Mr. Stickels, is a modified version of a Proposed Resolution considered at a recent SCAT (Sussex County Association of Towns) meeting. The revised version recognizes the entire immigration population of Sussex County; the original version recognizes only the Latino immigrants. Mr. Stickels reviewed an amendment made to the Proposed Resolution since it was last discussed by Council, as follows "requesting the Immigration and Naturalization Service to deport illegal immigrants and take action against employers who employ illegal immigrants". Although differing views were heard regarding the adoption of the Proposed Resolution, there was general agreement that the Proposed Resolution will bring attention to the fact that there is an expanding immigration population in Sussex County and that related problems must be addressed.

M 105 96  
Adopt  
Resolu-  
tion No.  
R 011 96

A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to Adopt the Resolution No. R 011 96 entitled "ACTION PLAN RECOGNIZING THE EXPANDING IMMIGRATION POPULATION OF SUSSEX COUNTY, DELAWARE".

M 105 96 Motion Adopted: 4 Yea, 1 Abstention.  
(con't)

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

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

1. Western Sussex Water and Sewer Study Advisory Committee

The first meeting of the Western Sussex Water and Sewer Study Advisory Committee will be held at the Seaford Municipal Building on March 13, 1996, at 7:00 p.m. The Committee will review the existing conditions in the study area and establish goals and objectives of the study. All Advisory Committee meetings are open to the public.

2. Land Use Meetings

The next public meeting for the Sussex County Comprehensive Land Use Plan will be held on Wednesday, March 20, 1996, at the Seaford Municipal Hall at 7:00 p.m. This will be the third in the series of hearings. The final meeting is scheduled for Wednesday, March 27, 1996, at 7:00 p.m. at the Higher Education Building, Jack F. Owens Campus, Delaware Technical and Community College, Georgetown.

3. Smoke Detectors

There has recently been some concern raised over conflicts between State law and the County's Building Code regarding smoke detectors. After a series of meetings, conversations, and correspondence, a procedure has been established that appears to be satisfactory to all those involved. The State Fire Marshal's Office, the County's Building Code Department, and First State Inspection Agency are in agreement that hard wired smoke detectors will not be required unless other remodeling requiring the removal of walls and ceilings is being done. Battery powered smoke detectors will be acceptable in appropriate areas within the house when hard wiring is not possible. It is the Building Code Department's interpretation that the CABO One and Two Family Dwelling Code, Section R-215.1, allows for the exemption that smoke detectors are not required to be interconnected unless other remodeling considerations require removal of appropriate walls and ceilings to facilitate concealed interconnecting wires.

Proposed Ordinance Mr. Benson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A SIX (6) UNIT MULTI-FAMILY DWELLING STRUCTURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.31 ACRES, MORE OR LESS" (Conditional Use No. 1155) filed on behalf of Lake Ventures, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Collins introduced the 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 DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 76.39 ACRES, MORE OR LESS" (Change of Zone No. 1279) filed on behalf of Joseph R. Hudson and R. Craig Hudson. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Cole introduced a 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.06 ACRES, MORE OR LESS" (Change of Zone No. 1280) filed on behalf of W. T. Wilson. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Cole introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A HR-1/HR-2 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.74 ACRES, MORE OR LESS." (Change of Zone No. 1281) filed on behalf of Seabright Village. The Proposed Ordinance will be advertised for Public Hearing.

M 106 96 Councilmanic Grant A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to give \$800.00, \$400.00 each from Mr. Benson's and Mr. Stevenson's Councilmanic Accounts, to Milford Community Parades, Inc. for the annual parade scheduled for October 23, 1996.

Motion Adopted: 5 Yea.

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

M 107 96 Councilmanic Grant A Motion was made by Mr. Stevenson, seconded by Mr. Cole, to give \$1,000.00, \$200.00 from each Councilmanic Account, to Sussex County Veterans Council for the purchase of flags to be placed on the graves of Veterans on Memorial Day.

Motion Adopted: 5 Yea.

M 107 96 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

M 108 96 A Motion was made by Mr. Stevenson, seconded by Mr. Cole,  
Council- to give \$700.00 (\$233.33 from Mr. Benson's Councilmanic  
manic Account, \$233.33 from Mr. Collins' Councilmanic Account,  
Grant and \$233.34 from Mr. Stevenson's Councilmanic Account)  
to the Sussex Central High School Band for operating expenses.

Motion Adopted: 5 Yea.

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

M 109 96 At 11:30 a.m., a Motion was made by Mr. Stevenson, seconded by  
Recess Mr. Collins, to recess for five minutes. Motion Adopted by  
Voice Vote.

Reconvene At 11:40 a.m., Mr. Dukes called Council back into session.

Executive At 11:40 a.m., the Sussex County Council went into Executive  
Session Session for the purpose of discussing pending litigation. The  
Executive Session concluded at 12:30 p.m.

M 110 96 A Motion was made by Mr. Collins, seconded by Mr. Benson, to  
Recess recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Dukes called Council back into session at 1:42 p.m.

Attorney The Attorney for the first Public Hearing was Mr. Jones.

Public A Public Hearing was held on the Proposed Ordinance entitled  
Hearing "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1  
(C/U AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT SHOWROOM, OFFICE,  
No. 1147) AND ASSOCIATED USES TO BE LOCATED ON A CERTAIN PARCEL OF LAND  
LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CON-  
TAINING 26,214 SQUARE FEET, MORE OR LESS" (Conditional Use  
No. 1147) filed on behalf of Delmarva Marine Service, Inc.  
The Public Hearing was closed.

M 111 96 A Motion was made by Mr. Cole, seconded by Mr. Benson, to  
Adopt Adopt Ordinance No. 1080 entitled "AN ORDINANCE TO GRANT A  
Ordinance CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL  
No. 1080 DISTRICT FOR A BOAT SHOWROOM, OFFICE, AND ASSOCIATED USES  
(C/U TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING  
No. 1147) IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26,214  
SQUARE FEET, MORE OR LESS" (Conditional Use No. 1147) filed  
on behalf of Delmarva Marine Service, Inc, with the following  
stipulations:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

M 111 96  
(con't)

2. The site plan shall be subject to review and approval by the Sussex Conservation District, the Delaware Department of Transportation, the Delaware Department of Natural Resources and Environmental Control, and the Office of the State Fire Marshal.
3. The building plans shall be subject to review and approval by the Sussex County Building Code Department and the Office of the State Fire Marshal.
4. Signage shall be limited to one sign, not exceeding 32 square feet per side or facing, for this application and the existing Conditional Use on the same site. Only one advertisement sign is permitted on the entire site.
5. Access shall be limited to ingress/egress from Road 289 as indicated on the site plan.
6. The showroom building shall not exceed 1500 square feet as indicated on the site plan. Use of the building shall be limited to showroom, office and related office storage, and bathrooms. All boat repair and maintenance shall be performed within the confines of the previously approved Conditional Use areas.
7. All boats to be displayed shall be inside of the building.
8. Approval shall be contingent on the site being in compliance with all zoning regulations.

Motion Adopted: All Yea.

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

Findings  
of Fact  
(C/U  
No. 1147)

The findings of fact and recommendations of the Planning and Zoning Commission were incorporated into the record. The County Council found that the proposed use, a boat showroom, office and associated uses, is in accordance with the Comprehensive Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County. The County found that the conditional use is of a public or semi-public character and is essential and desirable for the general convenience and welfare.

Attorney

The attorney for the last two Public Hearings was Mr. Bayard.

Public Hearing (C/U No. 1148) 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 RADIO BROADCAST TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.82 ACRES, MORE OR LESS" (Conditional Use No. 1148) filed on behalf of Great Scott Broadcasting. The Public Hearing was closed.

M 112 96 Adopt Ordinance No. 1081 (C/U No. 1148) A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Ordinance No. 1081 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RADIO BROADCAST TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.82 ACRES, MORE OR LESS" (Conditional Use No. 1148) filed on behalf of Great Scott Broadcasting, with the following stipulations:

1. The total area of the site, being a triangular shape, shall be 3.828 acres in total area per the survey, which is a part of the application.
2. The maximum radio tower height shall be 505 feet.
3. The safety lights on the tower shall be red blinking lights (no strobe lights).
4. The building serving the site as the transmittal station shall be fenced.
5. No water or septic shall be placed on the property.
6. The radio broadcast tower will donate space to the County for emergency broadcast systems.
7. The roadway shall be constructed with a gravel base and tar/chip surfacing.

Motion Adopted: All Yea.

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

Findings of Fact (C/U No. 1148) 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 proposed use will serve the public convenience and will have no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.

Findings  
of Fact  
(con't)

2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public  
Hearing  
(C/Z  
No. 1275)

A Public Hearing was held on the 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 16,754 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1275) filed on behalf of Joseph J. Balsamo. The Public Hearing was closed.

M 113 96  
Adopt  
Ordinance  
No. 1082  
(C/Z  
No. 1275)

A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Ordinance No. 1082 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 16,754 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1275) filed on behalf of Joseph J. Balsamo.

Motion Adopted: 5 Yea.

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

Findings  
of Fact  
(C/Z  
No. 1275)

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

1. The applicant established by substantial evidence that the change of zone is a small expansion to an existing commercially zoned and partially developed property, and thereby will be consistent with the character of the neighborhood and development trends.
2. The change of zone will have no adverse impact on property values, the environment, and combined with the adjoining property, may provide better, safer access and traffic control.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.
4. The change of zone meets the purposes and goals of the Comprehensive Land Use Plan.

State-  
ment  
Read at  
Public  
Hearings

For informational purposes, Mr. Stickels advised Council of a statement that is read before every hearing of the Board of Adjustment, as follows:

"It is not unusual for the Sussex County Board of Adjustment to have as many as fifteen or more separate public hearings on its agenda for each meeting. Often, in an effort to keep the agenda moving along, and in order to allow additional time for consideration, the Board will take a matter under advisement after a public hearing has been completed. Matters taken under advisement are then considered by the Board at the end of the meeting.

All Board of Adjustment matters are discussed and voted upon publicly, according to State law. Persons interested in a particular application are invited to remain throughout the Board meeting in order to review the Board's deliberations. The Board of Adjustment welcomes all persons to witness any proceedings of the Board."

It was noted that a similar statement is read before Planning and Zoning hearings.

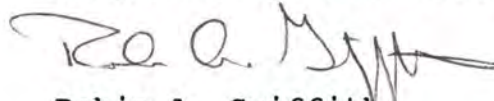
Announce-  
ment

Mr. Benson announced that he will not be seeking re-election for a seventh four-year term to the Sussex County Council.

M 114 96  
Adjourn

A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to adjourn at 2:23 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council