

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

Call to Order The regular meeting of the Sussex County Council was held Tuesday, March 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 133 99 A Motion was made by Mr. Rogers, seconded by Mr. Cole, to approve the
Approve Agenda, as presented.
Agenda

Motion Adopted: 5 Yea.

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

M 134 99 A Motion was made by Mr. Rogers, seconded by Mr. Cole, to approve the
Approve minutes of the previous meeting, dated March 9, 1999.
Minutes

Motion Adopted: 5 Yea.

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

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

U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA, PENNSYLVANIA.
RE: Notice of Public Hearing to solicit comments and recommendations from the public concerning an application filed by the Delaware River and Bay Authority (Waterway: Delaware Bay/Lewes Ferry Terminal Basin, Breakwater Harbor, and Delaware Bay)

STATE OF DELAWARE, DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL, DIVISION OF AIR & WASTE
MANAGEMENT, DOVER, DELAWARE.

RE: Legal Notice regarding the revision of the State Implementation Plan for the Attainment of the Ozone Air Quality Standard.

Corre-
spondence
(con't)

RE: Legal Notice and Notice of Public Hearing on proposed amendments to the State Implementation Plan for the Attainment and Maintenance of the National Ambient Air Quality Standard for Ozone.

MARTY ROSS, PRESIDENT, DELAWARE SOYBEAN BOARD, DOVER, DELAWARE.

RE: Letter requesting financial support of the Delaware Soybean Board's programs.

DEBORAH P. HASKELL, EXECUTIVE DIRECTOR, DELAWARE HERITAGE COMMISSION, WILMINGTON, DELAWARE.

RE: Letter requesting financial support to sponsor children in their attendance at a Hands On Heritage day camp.

SHIRLEY A. PRICE, STATE REPRESENTATIVE, DOVER DELAWARE.

RE: Letter requesting assistance in funding at least one SPCA Animal Control Officer for Sussex County.

LANDSHARK OLYMPIADS, HARBESON, DELAWARE.

RE: Letter requesting inclusion on the Human Service Grant mailing list.

ANNE CANBY, SECRETARY, DELAWARE DEPARTMENT OF TRANSPORTATION, DOVER, DELAWARE.

RE: Letter regarding the reduction of the speed limit from the Indian River Inlet to Bethany Beach.

Subdivision
Appeal/
Deep
Pines II/
Norris
Niblett

Mr. Stickels, County Administrator, discussed an appeal of the Sussex County Planning & Zoning Commission's decision to deny an application of Norris L. Niblett for the subdivision of land in an AR-1 Agricultural Residential Zoning District in Nanticoke Hundred, by dividing 38.71 acres into 42 lots, located south of Road 46, 740 feet east of Road 526 (Subdivision Application No. 98-12 – Deep Pines II). A Public Hearing will be scheduled for April 27, 1999.

Charles
Mills
Boulevard
Initiative

Mr. Dennis Forney presented to Council the "Charles Mills Boulevard Initiative"; an initiative to enhance the transportation safety, friendliness and aesthetic appeal of the Charles Mills Boulevard corridor. This corridor includes Route 1 from the Nassau Overpass to Seashore State Park and serves as the gateway to Delaware's Cape Region. The Charles Mills Boulevard Initiative is a public-private effort including interested individuals, organizations, business and agencies. The effort is spearheaded by an advisory board from the Lewes-Rehoboth Rotary Club and 37th District Representative John Schroeder. Sussex County Council would serve as the governmental pass-through organization for receipt and allocation of funds and awarding of contracts as directed by the advisory board. Professional services for this project are proposed to be provided by Wallace Roberts & Todd, a firm specializing in environmental planning, urban design, landscape architecture and architecture. The purpose of obtaining professional services is to elicit political and financial support for

Charles
Mills
Boulevard
Initiative
(con't)

installing and maintaining landscape improvements in the study area. Wallace Roberts & Todd will work with the Delaware Department of Transportation, Sussex County and the business community to develop the final design concept that best meets the objectives of the study. The fixed price for the professional services is \$30,000 plus reimbursable expenses not-to-exceed \$2,000 for travel, reproductions, and other costs associated with producing the work. Representative Schroeder has committed \$17,000 to the project and Secretary of Transportation Anne Canby has committed \$15,000 to the project. The target date for completion of the project is August 1, 1999.

M 135 99
Authorize
Agreement
with
Wallace
Roberts
and Todd/
Charles
Mills
Boulevard
Initiative

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to authorize the President of the Sussex County Council to sign an Agreement with Wallace Roberts & Todd for professional services for improvements to Route One (Charles Mills Boulevard Initiative) contingent on the availability of State funding.

Motion Adopted: 5 Yea.

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

M 136 99
Authorize
Executive
Sessions

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to authorize an Executive Session to be held on Tuesday, March 16, 1999, following the conclusion of the morning session for the purpose of discussing personnel and to authorize an Executive Session to be held on March 23, 1999, at 9:00 a.m. for the purpose of discussing pending litigation.

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

1. SR 1 Grid Concept Study

Included with this report is a copy of copy of "SR 1 Connections". This is a publication that is produced by the Delaware Department of Transportation in regard to the upgrading of road capacity of SR 1.

2. Proposed Ellendale Sanitary Sewer District

The Sussex County Engineering Department, Planning and Permits Division, will be conducting workshops in regard to the proposed Ellendale Sanitary Sewer District. A public workshop will be held at the Ellendale

Adminis-
trator's
Report
(con't)

Town Hall from 4:00 to 7:00 p.m. on Tuesday, March 16, 1999. On Wednesday, March 17, 1999, a public workshop will be held at the New Hope Center located on Road 213, north of Route 16, in Ellendale. This workshop will take place from 1:00 to 4:00 p.m. The purpose of the two workshops will be to discuss concerns that residents may have regarding proposed rates, assistance programs, and referendum information.

Anyone wishing to obtain an absentee ballot may contact the Planning and Permits Division at 855-7839 or Mr. Chris Calio at the Planning and Permits Division located in the County Administrative Office Building on The Circle in Georgetown between the hours of 8:30 a.m. and 4:30 p.m. The deadline for filing for absentee ballots is Wednesday, March 17, 1999.

The referendum will take place on Thursday, March 18, 1999, starting at 1:00 p.m. Polls will close at 7:00 p.m. Polling locations will be the Ellendale Town Hall, 300 McCauley Street in the Town of Ellendale, and the New Hope Restaurant and Development Center on County Road 213, north of Route 16, near the Town of Ellendale.

Anyone over the age of 18 living in the proposed sanitary sewer district is eligible to vote along with any property owners. Anyone living in the proposed sewer district may vote at either location.

Lease
Agreement/
Sprint
Spectrum
L.P.

Mr. Izzo, County Engineer, discussed an Antenna Site License Agreement with Sprint Spectrum, L.P. for the placement of (1) antennas on the Dewey Water Tower and (2) electrical cabinets on ground level on the site. The terms of the Proposed Agreement are as follows: (1) there would be five five-year terms with the County having the option of terminating the agreement at year 15, (2) a \$10,000 one-time down-payment would be paid to the County, (3) the County would be paid \$1,500 per month increasing 15 percent at the end of each five year term and (4) the County has the option at the end of the first term (Year 10) to renegotiate the payments.

M 137 99
Authorize
Lease
Agreement/
Sprint
Spectrum
L.P.

A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the site agreement with Sprint Spectrum L.P. to lease space for the placement of antennas and equipment at the Dewey Water Tower be approved for a term not to exceed 25 years, contingent upon the approval of insurance-related language revisions by the Internal Auditor.

Motion Adopted: 5 Yea.

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

Workshop
Report

Mr. Lank, Director of Planning and Zoning, updated the Council on issues discussed at the February 4, 1999, Public Workshop at which members of the Sussex County Council, Planning and Zoning Commission and Board of Adjustment were in attendance.

1. Wall Signs and Billboards

Mr. Lank advised that the Board of Adjustment wants to discuss this issue further before Council considers any action to be taken.

Mr. Cole requested that the Board consider increasing setback requirements.

2. Commercial Setback Requirements

Mr. Lank advised that the Board of Adjustment wants to discuss this issue further before Council considers any action to be taken.

3. Minor and Major Subdivision Revisions and Alterations

Mr. Lank advised that two draft ordinances have been developed and discussed; however, the Planning and Zoning Commission wants to discuss the issue further before Council considers any action to be taken.

4. Intergovernmental Coordination

A Policy has been drafted and, following presentation to the County Council, has been distributed to the municipalities and to members of the Land Use Advisory Committee.

This matter will be brought back to Council with recommended revisions to the Policy.

5. Agricultural Residential District – Commercial Feed Lot and Structures

This issue will be discussed with the University of Delaware, Research and Education Service, and the Farm Bureau to get their opinion. Mr. Lank recommended that the entire section of the Code relating to the Agricultural Residential District be submitted to these organizations for review.

6. Conservation Zone

The Planning and Zoning Commission and the County Council have held hearings. County Council referred the issue back to the Planning and Zoning Commission. The issue needs to be readdressed.

It has been suggested that the Flood Zone Maps serve as a map for boundaries.

Workshop
Report
(con't)

Mr. Lank will prepare a draft ordinance for review by the Planning and Zoning Commission and County Council before the introduction process for Public Hearing.

7. Subdivision Ordinance

Mr. Lank is drafting an ordinance for the introduction process for Public Hearing.

Mr. Lank provided a comparison of fees between Sussex, Kent and New Castle Counties, as follows:

Sussex County: \$100.00 for preliminary site plan
 \$2.00 per lot (final site plan)

Kent County: \$400.00 for first ten lots
 \$10.00 for each additional lot

New Castle County: \$200.00 preapplication fee
 \$500.00 for preliminary site plan
 \$20.00 per lot

It was the consensus of Council that the draft ordinance include a recommendation for increased fees.

Mr. Lank commented that Council should consider looking at the fee structure for Change of Zone, Conditional Use and Board of Adjustment applications.

It was noted that any increase in fees would be for the purpose of covering the County's costs.

8. RPC Residential Planned Community

Mr. Lank will draft an ordinance to require TAC review on Residential Planned Communities. The Ordinance should give consideration to business uses permitted as an amenity to the project.

9. TAC Advisory Committee

Mr. Lank has spoke with David Hugg's office regarding getting other agencies to respond to all cases and getting them to participate in the meetings.

10. Transfer of Development Rights

The TDR Committee has met and recommended that a program needs to be adopted. They have stated that it would be beneficial for the Committee to

Workshop
Report
(con't)

have someone come in to explain the pros and cons of establishing a program.

Mr. Lank advised that some information has been obtained over the internet. Mr. Cole asked that this information be provided to the Council members.

Mr. Phillips stated that he believes the Council should encourage the TDR Committee to research this program.

Although several of the Councilmen are not supportive of a TDR Program, Mr. Stickels was instructed to find out how much it would cost to have Whitman Requardt & Associates develop a proposal for the establishment of a TDR Program.

It was noted that Pat Campbell-White, a realtor who attended the TDR Committee meeting, may have resources by which she could have a proposal made to the Committee regarding this issue.

11. Mobile Home Placement/Medical Hardship

Mr. Lank stated that an ordinance needs to be drafted.

Public
Hearing/
Sheriff
Fees

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY, TO INCREASE AND ADD CERTAIN FEES CHARGED BY THE SHERIFF OF SUSSEX COUNTY, IN ORDER TO CONFORM SUCH COSTS TO THOSE BEING CHARGED IN NEW CASTLE AND KENT COUNTIES".

Mr. Stickels, County Administrator, reviewed statistics showing the Department's past performance from 1993 through 1998. The Sheriff's Department has shown a loss at the end of each fiscal year during that period.

It is the purpose of the Proposed Ordinance to provide for an increase in fees for services provided by the Sheriff's Department (delivering court papers, notarizing documents, selling lands) to recover costs associated with performing these services. It is anticipated that this increase in fees will reduce the deficit the Sheriff's Department has experienced over the years. It was noted that there has been no increase in fees charged by the Sheriff's Department in thirteen years.

The Sheriff of Sussex County, Robert Reed, reviewed the increase in fees as outlined in the Proposed Ordinance. In addition, Mr. Reed discussed plans that he has for the Sheriff's Department and equipment purchases and training requirements he is proposing in the Fiscal Year 2000 budget to make his department more efficient and "up-to-standard".

Council questioned the Sheriff's recommendation that the deputies need sirens, bullet-proof vests, etc. and police training at the State Police Academy. Mr.

Public
Hearing/
Sheriff
Fees

Reed advised that, at times, services provided by the Sheriff's Department put the employees at risk and the lack of proper training could result in a liability situation for the Department as well as the County.

Public comments were heard and the Public Hearing was closed. Action was deferred.

M 138 99
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$500.00, \$250.00 each from Mr. Jones' and Mr. Rogers' Councilmanic Accounts to the Milford Parks & Recreation Department for the Third Annual "Golf For Youth" benefit tournament.

Motion Adopted: 5 Yea.

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

M 139 99
Council-
manic
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$400.00 from Mr. Jones' Councilmanic Account to the Greenwood Cheer Mature Lifestyle Center for programs and projects.

Motion Adopted: 5 Yea.

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

Request
for
Funding

Mr. Tate, Chairperson of the Delaware Volunteer Firemen's Association (DVFA) and the Ladies' Auxiliary Conference '99, requested Council's financial assistance for the Memorial Service that will be held to recognize their deceased members. This request will be taken under advisement during the budget process.

Request
for
Funding

The County Council discussed the request received from the Delaware Soybean Board for financial assistance for their programs. Mr. Marty Ross, President of the Delaware Soybean Board, discussed the Board's formation and purpose. This request will be taken under advisement.

Request for
Funding

The County Council discussed the request received from the Delaware Heritage Commission for financial assistance.

M 140 99
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$500.00, \$200.00 from Mr. Cole's Councilmanic Account and \$100.00 each from Mr. Dukes', Mr. Jones' and Mr. Rogers' Councilmanic Accounts, to the Delaware Heritage Commission to sponsor children to attend the Hands On Heritage day camp.

M 140 99
(con't)

Motion Adopted: 5 Yea.

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

It was noted that one school from each Councilmanic District is to be allocated \$100.00 so that children from each Councilmanic District will be sponsored.

Letter
Requesting
Funding for
SPCA
Officer

Mr. Stickels, County Administrator, discussed the letter received from Representative Shirley A. Price requesting Council's assistance in funding at least one SPCA Animal Control Officer for Sussex County. It was the consensus of Council that this is a State function and, therefore; Council is not interested in participating.

M 141 99
Recess

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to recess and go into Executive Session. Motion Adopted by Voice Vote.

Executive
Session

An Executive Session of the Sussex County Council was held on Tuesday, March 16, 1999, at 12:30 p.m., in the Caucus Room of the County Council Chambers, for the purpose of discussing personnel matters. The Executive Session concluded at 12:50 p.m.

Reconvene

Mr. Jones called Council back into regular session at 1:37 p.m.

Public
Hearing
(C/U
No. 1272)

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 LAND PLANNING DESIGN CONSULTING OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.53 ACRES, MORE OR LESS" (Conditional Use No. 1272) filed on behalf of Design Consulting Group, L.L.C. There were no public comments and the public hearing was closed.

M 142 99
Adopt
Ordinance
No. 1293
(C/U
No. 1272)

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt Ordinance No. 1293 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LAND PLANNING DESIGN CONSULTING OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 0.53 ACRES, MORE OR LESS" (Conditional Use No. 1272) filed on behalf of Design Consulting Group, L.L.C., with the following conditions:

1. The office building shall not exceed 2,400 square feet of floor area. Additions to the building for the private use of the residents on the premise may be permitted.

M 142 99
(con't)

2. One (1) unlighted sign, not exceeding 32 square feet per side or facing, may be permitted.
3. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, 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 proposed use will enable it to better serve its clientele in the area, without adverse impact of any sort on the surrounding area.
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/A
No. 1366)

A Public Hearing was held on the 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 20,820 SQUARE FEET, MORE OR LESS, ON TWO (2) PARCELS" (Change of Zone No. 1366) filed on behalf of Indian River Marina Pier, Inc. Public comments were heard in support of the Proposed Ordinance.

M 143 99
Adopt
Ordinance
No. 1294
(C/Z
No. 1366)

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Ordinance No. 1294 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 20,820 SQUARE FEET, MORE OR LESS, ON TWO (2) PARCELS" (Change of Zone No. 1366) filed on behalf of Indian River Marina Pier, Inc.

Motion Adopted: 5 Yea.

M 143 99
(con't)

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

Findings
of Fact

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 site has been a commercial location for more than thirty years and the change of zone will correct a zoning non-conformity and will enable the applicant to rehabilitate the property to bring it to present day building code requirements, while positively impacting the character of the neighborhood and property values therein.
2. The change of zone 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.

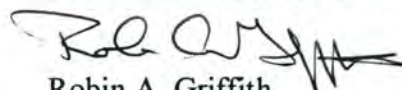
Request
for
Funding

A request was made to Council to consider providing funding for a special wheelchair for a young girl that attends the Long Neck Elementary School. Council advised that a formal letter of request is required. In addition, recipients of funding cannot be individuals; funds can be received by school districts, churches and other non-profit organizations.

M 144 99
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to adjourn at 2:17 p.m. Motion Adopted by Voice Vote.

Respectfully submitted



Robin A. Griffith
Clerk of the County Council