

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 29, 1994

Call to Order The regular meeting of the Sussex County Council was held Tuesday, March 29, 1994, 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 119 94 A Motion was made by Mr. Collins, seconded by Mr. Stevenson, Approve to approve the minutes of the previous meeting dated March 22, Minutes 1994. Motion Adopted by Voice Vote.

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

HOWARD GRISE, INDIAN RIVER FOOTBALL BOOSTERS, FRANKFORD, DELAWARE.

RE: Appreciation for Councilmanic Grant.

PATRICK C. MILLER, OAK ORCHARD RIVERDALE CIVIC ASSOCIATION, MILLSBORO, DELAWARE.

RE: Letter to Mr. Lecates, Director of Community Development and Housing, expressing appreciation for efforts made to secure and obtain the Community Block Grant Funding of \$2,500 for the road improvement grant proposal.

Proposed Mr. Stickels, County Administrator, read in its entirety a Procla- Proclamation entitled "PROCLAIMING APRIL, 1994, AS mation 'NATIONAL COMMUNITY COLLEGE MONTH'". The Proclamation addresses the service residents of Sussex County receive from the Southern Campus of Delaware Technical & Community College including a broad array of educational services and a resource of community services. The Council encourages all citizens to recognize the value and opportunities available to them at the Southern Campus of Delaware Technical & Community College.

M 120 94 A Motion was made by Mr. Benson, seconded by Mr. Stevenson, Adopt to Adopt the Proclamation entitled "PROCLAIMING APRIL, 1994, Procla- AS 'NATIONAL COMMUNITY COLLEGE MONTH'". mation

Motion Adopted: 5 Yea.

M 120 94 (con't) Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

Accept Proclamation Mr. S. Joseph Fantl, Assistant Director, Southern Campus of Delaware Technical & Community College, was present to accept the Proclamation.

FHA 504 Loan and Grant Program Mr. Stickels, County Administrator, advised that Sussex County Community Development and Housing has been selected to participate in the Farmers Home Administration 504 Loan and Grant Program. This program is a 1% low interest home improvement program for very low income homeowners, to be used for repairs which will remove identified health and safety hazards. Fifty thousand dollars has been approved for this project. Qualified participants must be sixty-two years of age or older and must meet income guidelines and show the ability to repay the loan. The program will complement Sussex County's Community Development and Housing Program.

M 121 94 Approve Participation in FHA 504 Loan and Grant Program A Motion was made by Mr. Cole, seconded by Mr. Benson, that the Sussex County Council, having met in public session, approves the Sussex County Community Development and Housing Division participating in the Farmers Home Administration 504 Loan and Grant Program.

Motion Adopted: 5 Yea.

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

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

1. South Coastal Library Dedication

The Sussex County Council will be dedicating the South Coastal Library on Sunday, April 17, 1994, at 2:00 p.m. The library is located at 41 Kent Avenue, Bethany Beach, Delaware. The public is encouraged to visit the South Coastal Library that was made possible through the cooperation of private citizens and State, local, and County governments.

2. House Bill No. 414

House Bill No. 414 was introduced on Wednesday, March 23, 1994. The purpose of this legislation is to allow school

Adminis-  
trator's  
Report  
(con't)

districts to collect taxes on taxable real estate when the property has been exempted from County taxation for the purposes of attracting or expanding for-profit businesses. In the past, some County and local governments have enticed businesses in their areas with promises of reducing or eliminating property taxes for a period of time. Should this legislation become law, County and local governments would only be able to waive their portion of taxes. All school taxes must be collected.

Mr. Stickels does not see this legislation affecting Sussex County, as the County's Economic Development Office has not had Council permission to waive anyone's taxes for enticement to locate in Sussex County.

A copy of House Bill No. 414 was included with the report.

RDA  
Community  
Program  
Loan  
Interest  
Rate

Mr. James Waters of the Rural Development Office was present to advise Council of a rate reduction which will effect the RDA funding the County has requested for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Mr. Waters stated that, effective April 1, 1994, the low income interest rate for RDA Community Program Loans will be reduced from five percent (5%) to four and one-half percent (4 1/2%).

\$19  
Million  
West  
Rehoboth  
Sewer  
Bonds

Mr. Baker, Finance Director, updated the Council on the status of the (approximately) \$19 Million Revenue Bonds that Sussex County will be issuing for the West Rehoboth Sewer Project. Mr. Baker reported that proposals were solicited from nine different firms that had expressed interest in underwriting the bonds, as follows: Merrill Lynch & Company, Lehman Brothers, Dean Witter Reynolds, Inc., A. H. Williams & Company, Inc., PNC Securities Corporation, Legg Mason Wood Walker, Inc., Alex. Brown & Sons, Inc., Butcher & Singer, and Janney Montgomery Scott, Inc. Of these nine, the following five firms were interviewed: Lehman Brothers, Legg Mason Wood Walker, Inc., Dean Witter Reynolds, Inc., A. H. Williams & Company, Inc., and Butcher & Singer. The Underwriters selected were Butcher & Singer, Dean Witter Reynolds, Inc., and Legg Mason Wood Walker, Inc. These bonds will be insured by MBIA. They will be rated "AAA" by Moody's and Standard & Poor's. The County achieved a Moody's stand-alone "A" rating also. A Feasibility Study conducted by Black & Veatch projected revenue bond coverage ratios 2.3 to 2.8 times revenue available, or approximately double the 1.25 ratio requirement. Interest and principal payments on the Revenue Bonds will be paid from gross revenues after operating expenses, but before debt service on other loans. Interest paid to bondholders will be exempt from Federal and State of Delaware income taxes, and will offer Delaware investors a taxable equivalent yield in the eight percent (8%) range. This \$19 Million Revenue Bond financing represents about 25 percent of the total cost of the project, estimated to be \$76 Million.

Proposed Amend- Ordinance No. 685  
Mr. Baker, Finance Director, discussed an amendment to Ordinance No. 685 which authorizes the collection of capitalization fees for the West Rehoboth project. Ordinance No. 685 allows capitalization fees to be used for collection system costs for the project. This amendment broadens the use of capitalization fees to include interest on debts used to finance the project, other capital costs, etc.

Proposed Ordinance  
Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND ORDINANCE NO. 685, ENTITLED 'AN ORDINANCE TO PROVIDE FOR THE PAYMENT OF A SEWER CAPITALIZATION FEE AND THE POSTING OF A BOND OR LETTER OF CREDIT WITH RESPECT TO THE ESTABLISHMENT OF CENTRAL SEWER SERVICE IN THE WEST REHOBOTH SEWER MORATORIUM AREA', AS AMENDED, TO EXPAND THE PERMITTED USE OF THE REVENUES DERIVED FROM SUCH FEE". The Proposed Ordinance will be advertised for Public Hearing on April 19, 1994.

Local Government Records Program  
Mr. Parker, Director of Assessments, and Mr. McCabe, Administrator, Local Government Records Program, Bureau of Archives, discussed the 1994 Records Management Improvement Grants. The Program promotes records management and the preservation of records. The County applied through the Assessment Division for a grant which would enable the County to continue the filming of permanent records. Mr. McCabe presented Council with a check in the amount of \$2,500.00 representing the grant award to Sussex County for Fiscal Year 1994. The funds will be used for preservation of the County's records.

West Rehoboth Change Order  
Mr. Green, Director of Utility Construction, discussed Change Order No. 1 and a recapitulation to date for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Contracts 2 and 3.

M 122 94 Issue Change Order No. 1  
A Motion was made by Mr. Cole, seconded by Mr. Collins, that based on the recommendation of the Inspection Engineer, George, Miles & Buhr, and the Sussex County Engineering Department, that the Sussex County Council authorizes the President of the Sussex County Council to issue Change Order No. 1 for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Contracts 2 and 3, to Northeast Construction, Inc., to extend a thirty (30") inch steel bored casing pipe twenty (20') feet, in order to clear a DelDOT traffic signal pole at Delaware Route No. 270A, increasing this contract amount to \$3,294,272.40.

Motion Adopted: 5 Yea.

M 122 94 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

George, Mr. Wood, County Engineer, and Mr. Thomas of George,  
Miles Miles & Buhr, discussed an increase in George, Miles &  
& Buhr Buhr's original contract amount for the West Rehoboth  
Contract sewer project from \$4,757,200.00 to \$5,373,030.00.  
for Reasons for the increase include the Value Engineering  
West Study, putting sewers outside of the road right-of-way  
Rehoboth as required by DelDOT, alternatives studied as a result  
of the Weston Value Engineering Study, and the requirement  
to comply with the Historic and Preservation Act.

M 123 94 A Motion was made by Mr. Collins, seconded by Mr. Cole,  
Increase that based on the recommendation of the County Engineering  
George, Department, that the President of the County Council be  
Miles authorized to enter into a contract with George, Miles &  
& Buhr Buhr increasing their original contract amount of  
Contract \$4,757,200.00 by \$615,830.00 to include the work performed  
for under the eighteen month time extension, bringing the  
West revised contract total to \$5,373,030.00.  
Rehoboth

Motion Adopted: 5 Yea.

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

M 124 94 A Motion was made by Mr. Stevenson, seconded by Mr. Cole,  
Council- to give \$750.00, \$250.00 from Mr. Dukes', Mr. Collins', and  
manic Mr. Stevenson's Councilmanic Accounts, to the Fraternal Order  
Grant of Police, Lodge #9, to help defray the cost of sending  
members (delegates) to the 1994 State Convention in Dewey  
Beach, Delaware, and to the 1995 National Convention in  
Virginia Beach, Virginia.

Motion Adopted: 5 Yea.

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

M 125 94 A Motion was made by Mr. Stevenson, seconded by Mr. Cole,  
Council- to give \$600.00, \$300.00 from Mr. Benson's Councilmanic  
manic Account and \$300.00 from Mr. Stevenson's Councilmanic Account,  
Grant to Milford Community Parades, Inc. to help defray the cost  
of the parade scheduled for October 26, 1994.

Motion Adopted: 5 Yea.

M 125 94 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

M 126 94 A Motion was made by Mr. Cole, seconded by Mr. Collins,  
Council- that the Sussex County Council authorizes the scheduling of  
manic an Executive Session on Tuesday, April 5, 1994, at 9:00 a.m.,  
Grant in the Sussex County Council Chambers, in the Courthouse,  
The Circle, Georgetown, Delaware, for the purpose of dis-  
cussing pending litigation and land acquisition.

Motion Adopted: 5 Yea.

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

M 127 94 At 11:45 a.m., a Motion was made by Mr. Cole, seconded by  
Recess Mr. Collins, to recess until 1:30 p.m. Motion Adopted by  
Voice Vote.

Reconvene Mr. Dukes called Council back into session at 1:38 p.m.

Public A Public Hearing was held on a Proposed Ordinance entitled  
Hearing "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1  
(C/U AGRICULTURAL RESIDENTIAL DISTRICT FOR A TWO (2) LOT ADDITION  
No. 1064) TO AN EXISTING MANUFACTURED HOME PARK TO BE LOCATED ON A  
CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED,  
SUSSEX COUNTY, CONTAINING 1.04 ACRES, MORE OR LESS"  
(Conditional Use No. 1064) filed on behalf of Destination  
Developments, Inc. The Public Hearing was closed.

M 128 94 A Motion was made by Mr. Cole, seconded by Mr. Collins, to  
Adopt Adopt Ordinance No. 958 entitled "AN ORDINANCE TO GRANT A  
Ordinance CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL  
No. 958 DISTRICT FOR A TWO (2) LOT ADDITION TO AN EXISTING MANU-  
(C/U FACTURED HOME PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND  
No. 1064) LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CON-  
TAINING 1.04 ACRES, MORE OR LESS" (Conditional Use No. 1064)  
filed on behalf of Destination Developments, Inc., with the  
following stipulations:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. The street serving the two (2) lots shall be constructed to County specifications.

Motion Adopted: 5 Yea.

M 128 94 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

Findings of Fact The findings of facts and recommendations of the Planning and Zoning Commission were incorporated into the record. The County Council granted the requested conditional use, finding that the proposed conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County. The County Council found that the proposed two lot addition to an existing manufactured home park was compatible with existing uses in the area.

Public Hearing (C/U No. 1065) 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 TWO (2) FAMILY DWELLING STRUCTURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.04 ACRES, MORE OR LESS" (Conditional Use No. 1065) filed on behalf of Joseph Mast. The Public Hearing was closed.

M 129 94 A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to Adopt Proposed Ordinance (C/U No. 1065) Denied A Conditional Use of Land in an AR-1 Agricultural Residential District for a Two (2) Family Dwelling Structure to be Located on a Certain Parcel of Land Lying and Being in Little Creek Hundred, Sussex County, Containing 2.04 Acres, More or Less" (Conditional Use No. 1065) filed on behalf of Joseph Mast.

Motion Denied: 1 Yea, 4 Nay.

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

Findings of Fact The findings of facts and recommendations of the Planning and Zoning Commission were incorporated into the record. The County Council found that the requested conditional use was not in accordance with the Comprehensive Development Plan and did not promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and also that the conditional use was not for the general convenience and welfare of the inhabitants of Sussex County. The County Council agreed with the Planning and Zoning Commission that multi-family structures in the area would not be compatible with the single family uses in the area and that a precedent may be established for additional multi-family structures in the area if the application was to be approved.

Public Hearing (C/U No. 1066) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A GO-CART TRACK (AMUSEMENT PLACE/RACETRACK) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.95 ACRES, MORE OR LESS" (Conditional Use No. 1066) filed on behalf of Fun Sport, Inc. The Public Hearing was closed.

M 130 94 Adopt Ordinance No. 959 (C/U #1066) A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to Adopt Ordinance No. 959 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A GO-CART TRACK (AMUSEMENT PLACE/RACETRACK) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.95 ACRES, MORE OR LESS" (Conditional Use No. 1066) filed on behalf of Fun Sport, Inc., with the following stipulations:

1. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.
2. Chain-link fencing, at least 48" high, shall be installed around the track perimeter.
3. Existing miniature golf course lighting may be relocated around tracks. No additional lighting shall be permitted.
4. The maximum number of tracks shall be three (3).
5. The maximum number of go-carts shall be thirty-four (34).
6. Operating hours shall be 10:00 a.m. to 12:00 a.m. (midnight) daily.
7. No less than three (3) employees shall be on site during business hours.
8. Adequate parking shall be provided.
9. Gasoline shall be stored in UL approved safety containers and/or as regulated by regulatory agencies.
10. Fire extinguishers shall be located at all refueling stations, and in pit areas and on the track infield at locations no greater than 50' from any go-cart anywhere on a track.
11. Noise levels shall not exceed those decibel levels associated with five horsepower engines, with factory installed mufflers in new, covered go-kart vehicles, at the time the conditional use was approved.

M 130 94 Motion Adopted: 5 Yea.  
(con't)

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

Findings of Fact The findings of facts and recommendations of the Planning and Zoning Commission were incorporated into the record. The County Council found that the requested conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

Public Hearing (C/Z No. 1221) 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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 0.67 ACRES, MORE OR LESS" (Change of Zone No. 1221) filed on behalf of Glenn H. and Linda R. Griffin. The Public Hearing was closed.

M 131 94 Adopt Ordinance No. 960 (C/Z No. 1221) A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to Adopt Ordinance No. 960 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 SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 0.67 ACRES, MORE OR LESS" (Change of Zone No. 1221) filed on behalf of Glenn H. and Linda R. Griffin.

Motion Adopted: 5 Yea.

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

Findings of Fact The findings of facts and recommendations of the Planning and Zoning Commission were incorporated into the record. The County Council found that a change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.

Recess At 2:40 p.m., Mr. Dukes declared a five minute recess.

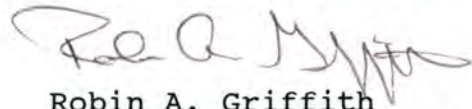
Reconvene Mr. Dukes called Council back into session at 2:45 p.m.

Public Hearing (C/Z No. 1220) 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/RPC AGRICULTURAL RESIDENTIAL - RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY/ RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 90.01 ACRES, MORE OR LESS" (Change of Zone No. 1220) filed on behalf of Arnell Landing Development Corp. The Public Hearing was closed and action was deferred pending receipt of comments from DelDOT and the Office of the State Fire Marshal in reference to the interconnection of streets.

Amendment Mr. Cole requested that an amendment to the zoning ordinance to Zoning be drawn up allowing the minimum lot size to be reduced in Ordinance an AR-RPC.

M 132 94 A Motion was made by Mr. Benson, seconded by Mr. Collins, Adjourn to adjourn at 3:45 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council