

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 16, 1996

Call to
Order

The regular meeting of the Sussex County Council was held Tuesday, April 16, 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 155 96
Amend
Agenda

A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to amend the Agenda to include the following item under Mr. Stickels, County Administrator: Proclamation - "National Library Week".

Motion Adopted: 5 Yea.

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

M 156 96
Approve
Minutes

A Motion was made by Mr. Collins, seconded by Mr. Benson, to approve the minutes of the previous meeting dated April 2, 1996. Motion Adopted by Voice Vote.

Corre-
spondence

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

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW JERSEY.
RE: Notice of Commission Meeting and Public Hearing to consider applications for approval (none of which are located in Sussex County).

DELAWARE WATER TRANSPORT COMMITTEE, SALISBURY, MARYLAND.
RE: Newsletter for the first quarter, 1996.

COMCAST CABLE COMMUNICATIONS, INC., GEORGETOWN, DELAWARE.
RE: Letter regarding Comcast's planned upgrade of their Sussex County Cable System.

BOY SCOUTS, TROOP 999, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of Mr. Stevenson's Councilmanic Grant.

LUCIEN FERGUSON, REHOBOTH BEACH, DELAWARE.
RE: Letter to Mr. Cole in appreciation of his appointment to the Assessment Appeal Board.

Sussex Conservation District/ "Soil and Water Stewardship Week" Mr. Vanderwende and Mr. Buehl of the Sussex Conservation District were present to advise Council of the 1996 Observance of "Soil and Water Stewardship Week" scheduled from April 28 through May 5, 1996. The theme this year is "Harmony: People and Places." Mr. Vanderwende and Mr. Buehl thanked Council for their continued support of the Sussex Conservation District and its programs. Mr. Vanderwende presented to Councilman Stevenson a Certificate of Appreciation honoring him for ten years of dedicated service on the Conservation Board.

Proposed Proclamation Mr. Stickels, County Administrator, read a Proposed Proclamation entitled "PROCLAIMING APRIL 28 THROUGH MAY 5, 1996, AS 'SOIL AND WATER STEWARDSHIP WEEK'."

M 157 96 Adopt Proclamation/ "Soil & Water Stewardship Week" A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt the Proclamation entitled "PROCLAIMING APRIL 28 THROUGH MAY 5, 1996, AS 'SOIL AND WATER STEWARDSHIP WEEK'."

Motion Adopted: 5 Yea.

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

Proposed Resolution/ Farmland Preservation Mr. Stickels, County Administrator, reviewed a Proposed Resolution of the Sussex County Association of Towns entitled "A RESOLUTION IN SUPPORT OF FARMLAND PRESERVATION AND OPEN SPACE FUNDING FROM THE 21ST CENTURY FUND". The Sussex County Association of Towns Steering Committee has asked that all members consider this Proposed Resolution prior to a scheduled vote by all members at the May 1, 1996, meeting.

M 158 96 Support Proposed Resolution/ Farmland Preservation A Motion was made by Mr. Collins, seconded by Mr. Benson, to support the Sussex County Association of Towns' Proposed Resolution entitled "A RESOLUTION IN SUPPORT OF FARMLAND PRESERVATION AND OPEN SPACE FUNDING FROM THE 21ST CENTURY FUND".

Motion Adopted: 4 Yea, 1 Abstention.

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

Legislative Update Mr. Stickels, County Administrator, provided the following legislative update:

1. Unnumbered House Bill -

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE BOARD OF PENSION TRUSTEES AND INVESTMENT POOLS

Legis-
lative
Update
(con't)

This Bill establishes a Local Government Investment Pool in the custody of the Board of Pension Trustees to allow local governments the option to pool their pension assets with the State's Pension fund. This will allow local governments to maximize their rate of return and reduce administrative expenses related to the investment of funds. The Board of Pension Trustees shall adopt rules and regulations to govern the administration of the Pool.

It was the consensus of Council to support this Proposed Legislation.

2. Senate Bill No. 348 -

AN ACT TO AMEND TITLE 9, DELAWARE CODE RELATING TO ZONING AND SUBDIVISION APPROVAL

This Act would establish requirements of review and approval by the Secretary of Transportation and both houses of the General Assembly for major subdivisions and rezonings of parcels greater than one acre.

It was the consensus of Council not to support this Proposed Legislation.

3. Senate Joint Resolution No. 20 -

RELATING TO A STATEWIDE MORATORIUM ON REZONING

This Joint Resolution will establish a statewide moratorium on rezonings to allow the State and Counties time to adopt policies and law to prevent unwise development. The Resolution allows for zonings for important economic development projects.

It was the consensus of Council not to support this Proposed Legislation.

Proposed Proclamation Mr. Stickels, County Administrator, read in its entirety a Proposed Proclamation entitled "PROCLAIMING THE WEEK OF APRIL 14 THROUGH APRIL 20, 1996, AS 'NATIONAL LIBRARY WEEK'."

M 159 96 Adopt Proclamation/ "National Library Week" A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt the Proclamation entitled "PROCLAIMING THE WEEK OF APRIL 14 THROUGH APRIL 20, 1996, AS 'NATIONAL LIBRARY WEEK'."

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, reviewed the following information in his County Administrator's Report:

Adminis-
trator's
Report
(con't)

1. Immigration Update

Included with this report is a letter from Senator William V. Roth, Jr., to Ms. Doris M. Meissner, Commissioner, Immigration and Naturalization Service (INS). Senator Roth is asking Commissioner Meissner to meet with Mr. Dukes and Mr. Stickels to open direct dialogue about concerns over the number of immigrants in Sussex County. Similar efforts are also being made by Senator Biden.

On Thursday, March 28, 1996, Mr. Stickels met with staff members of Congressman Castle's Office regarding attempts to get an accurate count on the number of immigrants in Sussex County. Congressman Castle's staff is asking the INS Office to review their records to see how many visas have been issued with Sussex County as the designation for relocation. Mr. Stickels believes it is important that we get an accurate count. The 1990 census indicates that there are only 1,221 persons living in Sussex County who are of Hispanic origin. To allow Sussex County to fairly compete for federal funding for social programs, it is important that we have an accurate census.

Actuarial Mr. Baker, Finance Director, and Ms. France of Alexander & Valuation of the Sussex County Employee Pension Plan reported on the results of the valuation of the Sussex County Employees Pension Plan as of January 1, 1996. The recommended contribution, taking into account the 4% COLA increase assumption, is \$995,714, a \$35,000 decrease over last year's recommended contribution. During 1995, the Plan's assets experienced a gain of \$619,000. During 1995, the Market Value rate of return was 18.8%, well in excess of the assumed rate of return of 8.0%. This gain on assets decreased the recommended contribution by \$76,000.

M 160 96 A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Actuarial Valuation of the Sussex County Employee Pension Plan, as prepared by Alexander & Valuation of the Sussex County Employee Pension Plan.

Motion Adopted: 5 Yea.

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

Proposed Ordinance Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MUSIC SHOP AND RELATED SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.55 ACRES, MORE OR LESS, (Conditional Use No. 1157) filed on behalf of Hollis G. Luffman. The Proposed Ordinance will be advertised for Public Hearing.

M 161 96 A Motion was made by Mr. Cole, seconded by Mr. Benson, to
Council- give \$200.00 from Mr. Cole's Councilmanic Account to Indian
manic River High School for Sylvester G. Quillen's trip to Phoenix,
Grant Arizona for the 1996 National Leadership Conference.

Motion Adopted: 5 Yea.

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

M 162 96 A Motion was made by Mr. Cole, seconded by Mr. Collins, to
Council- give \$500.00 from Mr. Cole's Councilmanic Account to the
manic Rehoboth Beach Little League for Phase II of the new sports
Grant complex.

Motion Adopted: 5 Yea.

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

M 163 96 A Motion was made by Mr. Stevenson, seconded by Mr. Benson,
Council- to give \$500.00 from Mr. Stevenson's Councilmanic Account to
manic Greenwood Cheer Mature Lifestyle Center for supplies for their
Grant expanded facility.

Motion Adopted: 4 Yea, 1 Absent.

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

M 164 96 A Motion was made by Mr. Benson, seconded by Mr. Collins, to
Council- give \$500.00 from Mr. Benson's Councilmanic Account to the
manic Zwaanendael Club to supplement their annual budget to allow
Grant them to continue their services to the community.

Motion Adopted: 4 Yea, 1 Absent.

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

M 165 96 A Motion was made by Mr. Benson, seconded by Mr. Collins,
Council- to provide two porta-potties at Broadkill Beach from Memorial
manic Day through Labor Day, with the cost to be deducted from Mr.
Grant Benson's Councilmanic Account.

Motion Adopted: 4 Yea, 1 Absent.

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

M 166 96 Councilmanic Grant A Motion was made by Mr. Benson, seconded by Mr. Collins, to give \$500.00 from Mr. Benson's Councilmanic Account to the Milton Little League for operating expenses.

Motion Adopted: 4 Yea, 1 Absent.

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

M 167 96 Councilmanic Grant A Motion was made by Mr. Collins, seconded by Mr. Benson, to give \$200.00, \$100.00 from Mr. Dukes' Councilmanic Account and \$100.00 from Mr. Collins' Councilmanic Account, to the Laurel Men's Softball League for operating expenses.

Motion Adopted: 4 Yea, 1 Absent.

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

M 168 96 Councilmanic Grant A Motion was made by Mr. Collins, seconded by Mr. Benson, to give \$750.00, \$500.00 from Mr. Dukes' Councilmanic Account and \$250.00 from Mr. Collins' Councilmanic Account, to the Laurel Chamber of Commerce for the Second Annual Independence Day Celebration.

Motion Adopted: 4 Yea, 1 Absent.

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

M 169 96 Recess At 11:26 a.m., a Motion was made by Mr. Collins, seconded by Mr. Benson, to recess for Executive Session. Motion Adopted by Voice Vote.

Executive Session An Executive Session of the Sussex County Council was held Tuesday, April 16, 1996, at 11:40 a.m., in the Council Chambers, Courthouse, Georgetown, Delaware, for the purpose of discussing personnel and pending litigation. The Executive Session concluded at 12:08 p.m.

Reconvene Mr. Dukes called Council back into session at 1:35 p.m.

Public Hearing (C/U No. 1150) 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 MEDICAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.92 ACRES, MORE OR LESS" (Conditional Use No. 1150) filed on behalf of John E. Spieker, M.D. There was no opposition to this application. The Public Hearing was closed.

M 170 96 A Motion was made by Mr. Benson, seconded by Mr. Stevenson,
Adopt to Adopt Ordinance No. 1085 entitled "AN ORDINANCE TO GRANT
Ordinance A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL
No. 1085 DISTRICT FOR MEDICAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL
(C/U OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX
No. 1150) COUNTY, CONTAINING 3.92 ACRES, MORE OR LESS" (Conditional Use
No. 1150) filed on behalf of John E. Spieker, M.D., with the
following conditions:

1. The setbacks from adjacent single family property lines to be a minimum of twenty (20) feet, and shall be planted with appropriate screening shrubbery. Existing trees bordering the property shall be left standing.
2. Parking lot lighting shall be shaded from neighboring dwellings.
3. Storm drainage systems, holding pools, drainage ditches, etc... shall be far away from single family dwelling property lines to avoid cellar flooding and well invasion. Changes in the location of storm drainage systems subsequent to Planning and Zoning and Council concurrence shall be resubmitted to the Commission for public input and Planning and Zoning approval.
4. 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. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, 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 is consistent with the developing character of the neighborhood and, as a result, will have no adverse impact on the character of the community, property values therein, traffic or the environment in the area.
2. The applicant established by substantial evidence that the proposed use will enable him to better serve his patients and the Eastern Sussex Community and will permit his medical practice to grow.
3. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.

- Findings (con't) 4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.
- Councilman Mr. Dukes left the meeting at this time and did not participate in the following Public Hearing due to a conflict of interest. The meeting was turned over to Mr. Collins.
- Public Hearing (C/Z No. 1277) 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 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.92 ACRES, MORE OR LESS" (Change of Zone No. 1277) filed on behalf of Steven Seipp. There was no opposition to this application. The Public Hearing was closed.
- M 171 96 Adopt Ordinance No. 1086 (C/Z No. 1277) A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adopt Ordinance No. 1086 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 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.92 ACRES, MORE OR LESS" (Change of Zone No. 1277) filed on behalf of Steven Seipp.
- Motion Adopted: 4 Yea, 1 Absent.
- Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea; Mr. Collins, Yea; Mr. Stevenson, Yea; Mr. Dukes, Absent
- 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 change of zone is consistent with the Western Sussex Land Use Plan, is consistent with the developing character of the neighborhood, will protect property values therein, and will have no adverse impact on traffic or the environment in the area.
 2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.
- Councilman Mr. Dukes rejoined the meeting. Mr. Collins turned the meeting back over to Mr. Dukes.
- Public Hearing (C/Z No. 1278) 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 HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CON-

Public Hearing TAINING 9.60 ACRES, MORE OR LESS" (Change of Zone No. 1278) filed on behalf of Thomas S. Dale. There was no opposition to this application.

M 172 96 A Motion was made by Mr. Benson, seconded by Mr. Collins, to Adopt Ordinance No. 1087 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.60 ACRES, MORE OR LESS" (Change of Zone No. 1278) filed on behalf of Thomas S. Dale.

Motion Adopted: 5 Yea.

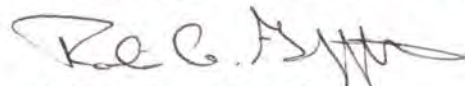
Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Findings of Fact 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 will enable him to expand his existing, active dismantling business, which has outgrown its present location, across County Road 269A.
2. The change of zone will compel the applicant to increase his work force by a minimum of six, thereby promoting employment in the County.
3. The change of zone is consistent with the purposes and goals of the Comprehensive Land Use Plan, will be in keeping with the developing character of the neighborhood, and, as a result, will have no adverse impact thereon, will have no impact on traffic, and will actually serve to enhance the environment, since part of the Applicant's business is recycling.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 173 96 A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adjourn adjourn at 2:20 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council