

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 22, 1997

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, April 22, 1997, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
George J. Collins	Vice President
George B. Cole	Member
Finley B. Jones	Member
Lynn J. Rogers	Member

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

M 173 97      A Motion was made by Mr. Cole, seconded by Mr. Collins, to Amend and Approve Agenda

approve the Agenda, with the following amendments:

1. Strike "Capitalization Fee Appeal - Phyllis Bader".
2. Strike Tom Baker, Project Coordinator, and replace with Michael Izzo, County Engineer.
3. Move the agenda item entitled "Ocean Way Estates - Proposed User Rates" to immediately follow the agenda item entitled "Ocean Way Estates, Sections I and II, Change Order No. 2 (Final)".

Motion Adopted: 5 Yea.

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

M 174 97      A Motion was made by Mr. Collins, seconded by Mr. Jones, to Approve Minutes

approve the minutes of the previous meeting dated April 15, 1997.

Motion Adopted: 5 Yea.

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

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.

Corre-  
spondence  
(con't)

DEPARTMENT OF THE ARMY, U.S. ARMY CORPS OF ENGINEERS, PHILA-  
DELPHIA, PENNSYLVANIA.

RE: Public Notice to solicit comments and recommendations from  
the public concerning issuance of a Department of the Army  
permit. (Applicant: Southport Partnership. Waterway: Lewes  
and Rehoboth Canal.)

WILLIAM S. GREEN, WASHINGTON, D.C.

RE: Letter of thanks to Mr. Stickels, County Administrator,  
for the tour of the County's Administrative Office Building.

WILLIAM V. ROTH, JR., UNITED STATES SENATOR, GEORGETOWN,  
DELAWARE.

RE: News Release regarding National Hurricane Center funding  
cutbacks.

STEVEN BERMAN, TALL PINES ASSOCIATES, L.L.C., BALTIMORE,  
MARYLAND.

RE: Letter requesting Council to investigate and consider a  
further expansion of the West Rehoboth Expansion of the Dewey  
Beach Sanitary Sewer District.

THE CHESAPEAKE BAY FOUNDATION AND NANTICOKE WATERSHED ALLIANCE,  
LAUREL, DELAWARE.

RE: Invitation to the Second Annual Nanticoke River Shad  
Festival.

Draft  
Ordinance  
Relating  
to  
Placement  
of  
Mobile  
Homes

Mr. Stickels, County Administrator, reviewed a draft ordinance  
entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF  
SUSSEX COUNTY, ENTITLED "ZONING", TO AMEND PROVISIONS RELATING  
TO THE PLACEMENT OF MOBILE HOMES". This ordinance amends the  
recently enacted mobile home zoning amendments, which stated  
that a replacement single-wide mobile home could not be older  
than five years in age. This new provision would allow a  
replacement single-wide or multi-sectional mobile home, as  
long as it is not older than the mobile home to be replaced.

Proposed  
Ordinance

Mr. Jones introduced the Proposed Ordinance entitled "AN  
ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY,  
ENTITLED "ZONING", TO AMEND PROVISIONS RELATING TO THE PLACE-  
MENT OF MOBILE HOMES". The Proposed Ordinance will be adver-  
tised for Public Hearing.

Adminis-  
trator's  
Report

Mr. Stickels, County Administrator, read the following informa-  
tion in his County Administrator's Report:

1. Sussex County Status Report - Delaware State Police - First  
Quarter 1997

The following hours of service were compiled by the Delaware  
State Police in Sussex County during the months of January,  
February, and March 1997:

	T-4	T-5	T-7
Adminis- trator's Report (con't)			
Total Hours on Duty	10,781.0	12,183.5	15,062.5
Hours Assisted Other Agencies	118.5	52.5	71
Total Traffic Arrests	2,520	3,787	2,800
Total DUI's	71	113	92
Accident Reports:			
Property Damage	157	193	227
Personal Injury	<u>51</u>	<u>72</u>	<u>68</u>
Total Accident Reports	208	265	295
Criminal Arrests:			
Felony	52	39	145
Misdemeanor	<u>384</u>	<u>311</u>	<u>724</u>
Total Criminal Arrests	436	350	869
Total 10-29 P's (wanted persons)	177	154	156
Total Number of Complaints	2,077	3,190	3,329

2. Connection Charges - Long Neck Sanitary Sewer District

The five-year grace period for existing lots/parcels to connect to the Long Neck Sanitary Sewer System will end on June 30, 1997. Property owners were granted a five-year grace period when the wastewater system became operational on April 1, 1992. After the five-year grace period, all new properties connected, as well as additions, must pay a connection charge. Currently, the connection charge for the Long Neck Sanitary Sewer District is \$1,997 per EDU.

3. Freedom of Information Act Complaint Against Sussex County Council

The State of Delaware Department of Justice received a complaint on February 24, 1997, from Mr. Clarence J. Barker that the County Council was in violation of the Freedom of Information Act, 29 Delaware Code, Sections 10001-10005. Based on Mr. Barker's complaint and Sussex County's response, W. Michael Tupman, Deputy Attorney General, has determined that the County Council did not violate the Freedom of Information Act. Mr. Tupman's opinion was confirmed by Michael J. Rich, State Solicitor.

4. Immigration and Naturalization Service

I have received notification from United States Senator Joseph R. Biden, Jr., that there will be ten Immigration and Naturalization Service (INS) officers assigned permanently to Kent and Sussex Counties and a new INS Office

Adminis-  
trator's  
Report  
(con't)

as a result of efforts on behalf of the Sussex County Association of Towns, with the assistance of Senator Biden. On April 29, 1996, Senator Biden conducted a meeting attended by senior INS officials, State, County, and local elected leaders, law enforcement officers, poultry industry executives, and church and community leaders. After that meeting, Senator Biden held follow-up meetings and contacted United States Attorney General Janet Reno and INS Commissioner Doris Meissner. Congressional approval of more federal funding to hire INS agents will result in Sussex County no longer being underserved and understaffed.

With the additional new staff, INS will be seeking permanent offices in the greater Dover area. INS agents will continue to work out of the Georgetown Police Station as well. Senator Biden stated that the new INS office and seven new officers will provide on-site services to help the increasing Hispanic population in Southern Delaware, poultry plants and their foreign-born employees, as well as County and State officials addressing immigration issues and concerns.

I would like to publicly thank Senator Biden for his efforts in improving INS services to Sussex County. With the most recent reports by the Delaware Population Consortium showing that the Hispanic population in Sussex County has increased 242 percent from 1990 to 1995, it is important that the INS provide a full range of immigration and naturalization services to Sussex County.

5. Long-Range Wastewater Facilities Plan - Town of Millsboro

Pursuant to the guidelines for Delaware's Wastewater Facilities Planning Grants Program, the Town of Millsboro has notified the Sussex County government of its intent to file an application to undertake a long-range facilities plan for wastewater infrastructure. The Mayor of Millsboro, Lynn R. Bullock, has stated that he plans to coordinate the Town's wastewater planning process with the Sussex County Council. I will keep Council advised as the development of the service area is determined.

6. City of Seaford - Certificate of Public Convenience and Necessity

I have been notified by the Department of Natural Resources and Environmental Control that the City of Seaford has filed for a Certificate of Public Convenience and Necessity to provide public water service to properties annexed into the City between September 26, 1994, and January 14, 1997, all situate in Sussex County. Application by the City may be inspected by appointment at the offices of the Department

Adminis-  
trator's  
Report  
(con't)

of Natural Resources and Environmental Control, 30 South American Avenue, Dover, Delaware. For more information or an appointment to inspect the application, you may contact A. J. Farling at 302-739-5081.

It is my understanding that a public hearing will not be held on this application unless requests for the hearing are filed no later than May 6, 1997.

7. Decision - Mitchell, et. al., v. Board of Adjustment of Sussex County

Please be advised that on April 17, 1997, Judge William Swain Lee affirmed the decision of the Board of Adjustment with respect to the asphalt plant which is proposed to be constructed at the Industrial Park by County Seat Materials, L.L.C. Judge Lee has found that the September 10, 1996, revised lease did not affect the standing of County Seat to appear before the Board. He has found that the opponents were not deprived of due process at the hearing, but instead that they had a full and fair opportunity to assess and comment on the proposed asphalt plant at the hearing. In addition, Judge Lee has found that the Board used the correct legal standards in its decision, and that there was substantial evidence to support the Board's decision.

The opponents have 30 days to file an appeal.

RDA  
Loan  
Applica-  
tion

Mr. Baker, Finance Director, presented for Council's consideration, an RDA loan application in the amount of \$750,000. The proceeds of the loan will be used to finance the following Airport Improvement Projects and Emergency Operations Communications Improvement Projects:

- Airport Hangars
- Rehabilitate Taxiway 13-31 and Construct a Parallel Taxiway
- Alternate 911 Center Unit
- 800 MHZ Improvements  
(Enlarging dispatch area and Digital Logging Recorder)

Mr. Baker reported that the term of the loan will be 40 years, maximum, at an interest rate of 5%, maximum. Sources of repayment will be Realty Transfer Tax or 911 revenues (approximately 53%) and County Bond Tax or General Fund (approximately 47%).

M 175 97 A Motion was made by Mr. Collins, seconded by Mr. Jones, that Authorize the County Engineer, the Engineering Accountant, and the County RDA Finance Director be authorized to apply to the Rural Development Agency for a \$750,000 loan to finance the County's local Loan share of Airport improvements, Emergency Operations Center Appli- cation Alternate 911 System and Communications System improvements.

Motion Adopted: 5 Yea.

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

Capital- Mr. Archut, Assistant County Engineer, discussed a capital- ization Fee Appeal/ Roberson appeal filed by Joan Roberson regarding her property located in Midway Estates in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Mr. Archut presented the record of the Engineering Department. Ms. Roberson was given the opportunity to present Council with her reasons for the appeal. It was the consensus of Council to deliberate on this issue during the Executive Session scheduled for 11:30 a.m. on this date; following the Executive Session, Council will reconvene to announce its decision.

Bay View Estates/ Circulation of Petitions Mr. Archut, Assistant County Engineer, advised Council that a property owner in Bay View Estates has contacted the County requesting the circulation of petitions for a sanitary sewer district in the area. It was noted that approximately ten years ago, petitions were circulated and a public hearing was held regarding a sanitary sewer district in the Bay View Estates area; it was determined at that time, in the best interest of the public, that a referendum would not be held.

M 176 97 A Motion was made by Mr. Cole, seconded by Mr. Collins, that Approve Circulation of Petitions in Bay View Estates the Sussex County Council approves the circulation of petitions to submit the question of organizing a sanitary sewer district for Bay View Estates to a referendum vote.

Motion Adopted: 5 Yea.

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

Ocean Way Estates Mr. Izzo, County Engineer, discussed Change Order No. 2, the final balancing change order, for Ocean Way Estates, Sections I and II, an extension of the Bethany Beach Sanitary Sewer District.

M 177 97 A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Sussex County Project Order/ Ocean Way Estates No. 81-04, Ocean Way Estates, Sections I and II, be approved in the amount of \$13,927.06 which increases the contract total amount from \$454,017.00 to \$467,944.06, contingent upon approval of Rural Development.

Motion Adopted: 5 Yea.

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

Proposed Annual User Rates/ Ocean Way Estates/ Sections I & II Mr. Archut, Assistant County Engineer, reviewed proposed annual user rates for Ocean Way Estates, Sections I and II, an extension of the Bethany Beach Sanitary Sewer District, as follows:

Annual Assessment Charge:	
Collection portion - (Based on RDA loan @ 4.5% for 40 years)	\$ 3.17/FF
Transmission portion - (Based on Bethany Beach Sanitary Sewer District rate for FY 1997)	\$ .25/FF
Total	\$ 3.42/FF
Annual Service Charge - (Based on Bethany Beach Sanitary Sewer District rate for FY 1997)	\$205.44/EDU
Typical annual assessment - (Based on a single family home and 75.0 front feet)	\$461.94

Mr. Archut noted that these rates are significantly lower than those projected for the area. These rates are proposed for the period January 1, 1997 to June 30, 1997; rates will be adopted again as part of the rate setting process for Fiscal 1998. These rates will be advertised and a public hearing will be scheduled.

Proposed Ordinance Mr. Collins introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 480 FOOT HIGH RADIO COMMUNICATION TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS" (Conditional Use No. 1184) filed on behalf of the State of Delaware, Office of Telecommunications Management. The Proposed Ordinance will be scheduled for Public Hearing.

Proposed Ordinance Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A 430 FOOT HIGH RADIO COMMUNICATION TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.56 ACRES, MORE OR LESS" (Conditional Use No. 1185) filed on behalf of the State of Delaware, Office of Telecommunications Management. The Proposed Ordinance will be scheduled for Public Hearing.

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 AND A C-1 GENERAL COMMERCIAL DISTRICT FOR A 450 FOOT HIGH RADIO COMMUNICATION TOWER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 5.24 ACRES, MORE OR LESS" (Conditional Use No. 1186) filed on behalf of the State of Delaware, Office of Telecommunications Management. The Proposed Ordinance will be scheduled for Public Hearing.

Proposed Ordinance Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE, SHOP AND STORAGE BUILDING FOR A PLUMBING AND BACKHOE SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.58 ACRES, MORE OR LESS" (Conditional Use No. 1187) filed on behalf of Merlin Schrock/Elvin Schrock and Sons. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Rogers introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, INCLUDING PORTIONS OF FOUR PROPERTIES AND CONTAINING 138.14 ACRES, MORE OR LESS" (Change of Zone No. 1304) filed on behalf of Fred Bennett III. The Proposed Ordinance will be advertised for Public Hearing.

M 178 97 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500.00 from Mr. Cole's Councilmanic Account to the Rehoboth Beach Little League for their capital campaign.

Motion Adopted: 5 Yea.

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

M 179 97 Councilmanic Grant A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$600.00 from Mr. Rogers' Councilmanic Account to the City of Lewes for the Mayor's attendance at the Small Cities Council Meeting.

Motion Adopted: 5 Yea.

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

Passport Mr. Stickels, County Administrator, presented a Sussex County "passport" to Esteban Parra, a reporter for the News Journal. Mr. Parra has received a job transfer from Sussex County to New Castle County.

Prayer Break-fast Mr. Dukes announced that the Twentieth Annual Sussex County Council Prayer Breakfast will be held on Monday, June 2, 1997, at 7:30 a.m., at Delaware Technical & Community College, Higher Education Building, Georgetown. This year's guest speaker will be Dr. Benjamin Carson, the Director of Pediatric Neurosurgery at the John Hopkins Medical Institution.

M 180 97 Recess At 11:35 a.m., a Motion was made by Mr. Cole, seconded by Mr. Jones, to recess from Regular Session and go into Executive Session. Motion Adopted by Voice Vote.

Executive Session At 11:42 a.m., an Executive Session was held in Council Chambers for the purpose of discussing land acquisition and pending litigation.

M 181 97 Adjourn Session At 12:10 p.m., a Motion was made by Mr. Collins, seconded by Mr. Jones, to adjourn the Executive Session and go back into Regular Session. Motion Adopted by Voice Vote.

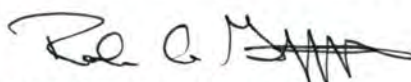
M 182 97 Approve Capitalization Fee Appeal (Denied) A Motion was made by Mr. Jones, seconded by Mr. Cole, to approve the capitalization fee appeal of Joan Roberson.

Motion Denied: 5 Nay.

Vote by Roll Call: Mr. Cole, Nay; Mr. Rogers, Nay;  
Mr. Jones, Nay; Mr. Collins, Nay;  
Mr. Dukes, Nay

M 183 97 Adjourn A Motion was made by Mr. Collins, seconded by Mr. Jones, to adjourn at 12:15 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council