

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 30, 1996

Call to Order The regular meeting of the Sussex County Council was held Tuesday, April 28, 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.

Proposed Change to Agenda Mr. Stickels, County Administrator, reviewed a proposed change to the Agenda, as follows:
Under Robert Stickels, County Administrator, add "Immigration and Naturalization Service Meeting Report."

M 188 96 Adopt Agenda A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt the Agenda, as amended.

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 189 96 Approve Minutes A Motion was made by Mr. Collins, seconded by Mr. Benson, to approve the minutes of the previous meeting dated April 23, 1996. Motion Adopted by Voice Vote.

Mr. Cole joined the meeting at this time.

Correspondence Mr. Schrader, Assistant County Attorney, read the following correspondence:

LETTER TO GOVERNOR THOMAS R. CARPER FROM MR. DALE DUKES ON BEHALF OF THE DELAWARE ASSOCIATION OF COUNTIES.
RE: Senate Bill 348.

MALORIE D. DERBY, GEORGETOWN, DELAWARE.
RE: Invitation to attend the National Day of Prayer on Thursday, May 2, 1996, and the March for Jesus on Saturday, May 18, 1996.

BILL WELLS, PRESIDENT, AND PAUL BIENVENUE, GENERAL MANAGER, DELAWARE ELECTRIC COOPERATIVE, INC., GREENWOOD, DELAWARE.
RE: Invitation to attend a Ground-Breaking Ceremony for their new headquarters facility on May 15, 1996.

Corre- MILFORD SENIOR CENTER, MILFORD, DELAWARE.
spondence RE: Invitation to attend a Ground-Breaking Ceremony for the
(con't) new Milton Senior Center on May 3, 1996.

INDIAN RIVER SCHOOL DISTRICT, ODYSSEY OF THE MIND TEAM, LEWES,
DELAWARE.

RE: Certificate of Appreciation for Mr. Benson's and Mr.
Cole's Councilmanic Grants.

SAMUEL R. COOPER, MAYOR, CITY OF REHOBOTH BEACH, REHOBOTH
BEACH, DELAWARE.

RE: Letter endorsing the Citizens Coalition's call for a
moratorium on new commercial development in the coastal region.

Proposed Mr. Stickels, County Administrator, and Mr. Cordrey, Personnel
Change/ Director, discussed a proposed change to Sussex County's Work-
Work- man's Compensation Policy. Under the current policy, after
man's missing three consecutive days of work due to an accepted,
Compen- work-related injury, an employee receives 66 2/3% of their
sation regular, gross salary from the Workman's Compensation carrier
Policy from the first day missed. The County makes up the difference.
Mr. Stickels noted that Workman's Compensation is not taxable
income and therefore the employee actually takes home more
money. Council discussed several alternatives to the current
policy including the following:

From the date of injury, the County will make up the
difference between Workman's Compensation and the
employee's regular gross salary for the first thirty
days. After those thirty days, the employee will
receive only Workman's Compensation of 66 2/3% of
their regular gross salary. Time will not be de-
ducted from either sick leave or vacation while the
employee is out of work. Any payroll deductions such
as health insurance or credit union are the responsi-
bility of the employee.

M 190 96 A Motion was made by Mr. Cole, seconded by Mr. Benson, to
Adopt Adopt the Policy Change regarding Workman's Compensation,
Policy as follows:

Change/ From the date of injury, the County will make up the
Work- difference between Workman's Compensation and the
man's employee's regular gross salary for the first thirty
Compen- days. After those thirty days, the employee will
sation receive only Workman's Compensation of 66 2/3% of
Policy their regular gross salary. Time will not be de-
ducted from either sick leave or vacation while the
employee is out of work. Any payroll deductions
such as health insurance or credit union are the
responsibility of the employee.

M 190 96 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

Work- It was noted that the adoption of this Policy will serve as
man's the date of injury for the purpose of calculating the thirty
Compen- day period for those employees who currently have an open
sation Workman's Compensation claim.

Committee Mr. Stickels, County Administrator, advised Council of two
Vacancy vacancies that will occur on the Planning and Zoning Commission
in June, 1996.

M 191 96 A Motion was made by Mr. Benson, seconded by Mr. Collins, to
Planning reappoint John L. Allen to the Planning and Zoning Commission
and for a term of three years.

Zoning Motion Adopted: 4 Yea, 1 Nay.
Commis- sion

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

M 192 96 A Motion was made by Mr. Stevenson, seconded by Mr. Collins,
Planning to reappoint James C. Phillips to the Planning and Zoning
and Commission for a term of three years.

Zoning Motion Adopted: 5 Yea.
Commis- sion

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

Immigra- Mr. Stickels, County Administrator, summarized a meeting
tion and sponsored by Senator Biden on April 29, 1996. This meeting
Natural- was held for the purpose of discussing concerns over the
ization number of immigrants in Sussex County and the Immigration
Service and Naturalization Service's response to the continuing
and growing severity of the problem. Attendance at this
meeting included representatives from the general public,
poultry industry, police departments, Mayors of local
governments, and representatives of the Sussex County
Council. During the meeting, problems arising from the
increase of immigrants in Sussex County were documented;
including welfare fraud, traffic fatalities, and the lack
of translators in public offices. County representatives
expressed concern that the population is under-counted; the
1990 census indicates that there are only 1,221 persons living
in Sussex County who are of Hispanic origin. County repre-
sentatives also expressed concern that the nearest Immigration

Immigration and Naturalization Service Meeting

and Naturalization Service (INS) office is in Philadelphia. Senator Biden stated that another meeting will be scheduled; he requested that people write letters to his staff making recommendations on what needs to be changed. Mr. Stickels proposed the following recommendations: a change in INS policy permitting an INS office in Georgetown and requesting the INS office to increase their enforcement regarding illegal immigrants. Mr. Cole recommended that a letter be sent to Senator Biden, Senator Roth and Congressman Castle asking them to consider supporting legislation requiring immigrants to be literate in some official language.

Administrator's Report

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

1. Student Government Day

On Thursday, May 9, 1996, 52 students from Sussex County high schools will be participating in a Sussex County Student Government Day. Students will be presented with problems at a County Council meeting similar to issues that the Council has faced during the year. The media, as well as the public, is invited to attend. The mock County Council session will be held in Superior Courtroom No. 2 beginning at 9:30 a.m.

2. United States Senate Superfund Hearing

On Wednesday, April 24, 1996, Mr. Stickels had an opportunity to appear before the United States Senate Committee on Environment and Public Works regarding Superfund reauthorization. On behalf of several local government organizations, Mr. Stickels provided testimony urging the Committee to provide relief to counties that owned or operated Superfund sites or arranged for delivery of municipal solid waste to such sites. Senate Bill 1285 contains some relief from liability to local governments. However, it does have gaps, leaving some counties such as Sussex County still exposed to unnecessary liability.

Senator Baucus of Montana and Senator Lautenberg of New Jersey have offered an alternative liability relief proposal. Their proposed alternative provides more relief to local governments who are generators and transporters and, in many circumstances, also offers more relief to owners and operators of landfills. Overall, their legislation covers most of the liability issues that are important to local governments and addresses the gaps that have been identified in Senate Bill 1285.

Adminis-
trator's
Report
(con't)

Unfortunately, EPA Administrator Carol Browner is sharply critical of Senate Bill 1285, which means that passage of the bill during this Congress will be very difficult. EPA Administrator Browner feels that too much of the cost for the cleanup sites would be the responsibility of federal and state governments if Senate Bill 1285 or any alternative legislation is passed.

Mr. Stickels hopes to continue to work closely with the National Association of Counties in seeing some type of federal legislation passed to provide liability relief to local governments.

Change
Orders/
West
Rehoboth

Mr. Green, Director of Utility Construction, and Mr. Bozick of George, Miles & Buhr reviewed three change orders to Construction Package C of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 193 96
Issue
Change
Order
No. 3/
Contract
C/
West
Rehoboth

A Motion was made by Mr. Cole, seconded by Mr. Benson, 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. 3, for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Contract C, Design Areas 5 and 19, to Lisbon Contractors, Inc., in the amount of \$1,848.00, for the addition of a propane gas vaporizer, with an unrevised substantial completion date of December 29, 1995, and increasing this contract amount to \$3,019,353.12, contingent on the approval of the following agencies; Rural Economic and Community Development and Department of Natural Resources and Environmental Control.

Motion Adopted: 5 Yea.

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

M 194 96
Issue
Change
Order
No. 4/
Contract
C/
West
Rehoboth

A Motion was made by Mr. Cole, seconded by Mr. Benson, 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. 4, for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Contract C, Design Areas 5 and 19, to Lisbon Contractors, Inc., in the amount of \$2,203.20, for four additional explosion proof hatch switches and appurtenances, with an unrevised substantial completion date of December 29, 1995, and increasing this contract amount to \$3,021,556.32, contingent on the approval of the following agencies, Rural Economic and Community Development and Department of Natural Resources and Environmental Control.

M 194 96 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

Defer Action/ Change Order No. 5/ West Rehoboth Council deferred action on Change Order No. 5, for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Contract C, Design Areas 5 and 19, to Lisbon Contractors, Inc., in the amount of \$16,694.94, for various design changes. Action was deferred to provide time to negotiate a possible credit for concrete that was included in the Contract.

Change Order/ West Rehoboth Mr. Green, Director of Utility Construction, and Mr. Bozick of George, Miles & Buhr Discussed Change Order No. 6 for Construction Package D of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 195 96 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, based on the recommendation of the Inspection Engineer, George, Miles & Buhr, and the Sussex County Engineering Department, that the County Council authorizes the President of the Sussex County Council to issue Change Order No. 6, for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Contract D, Design Areas 14, 15, 16, 17, and 18, to Lisbon Contractors, Inc., in the amount of \$7,059.99, for various sanitary sewer construction related items as detailed in Change Order No. 6, with an unrevised substantial completion date of December 29, 1995, and increasing this contract amount to \$5,826,854.37, contingent on the approval of Rural Economic and Community Development.

Motion Adopted: 5 Yea.

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

Agree-ments Mr. Green, Director of Utility Construction, discussed a Construction Administration and Construction Inspection Agreement between Sussex County Council and Clearwater Development.

M 196 96 A Motion was made by Mr. Cole, seconded by Mr. Collins, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Clearwater Development, Phase III, for wastewater facilities to be constructed at Clearwater Development, Phase III, located in the South Bethany Sanitary Sewer District.

Motion Adopted: 5 Yea.

South Bethany SSD

M 196 96 (con't) Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Bene- Mr. Green, Director of Utility Construction, discussed Bene-
ficial Acceptance of the wastewater facilities constructed at
Jiffy Lube, located in the West Rehoboth Expansion of the
Dewey Beach Sanitary Sewer District.

M 197 96 A Motion was made by Mr. Cole, seconded by Mr. Benson, based
Grant upon the recommendation of the Sussex County Engineering De-
Bene- partment, for Sussex County Project No. 81-04, that the Sussex
County Council grant Beneficial Acceptance for the wastewater
facilities constructed at Jiffy Lube, located in the West
Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Jiffy Lube/
West Motion Adopted: 5 Yea.

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

Change Mr. Green, Director of Utility Construction, and Mr. Bozick
Order/ of George, Miles & Buhr requested Council to reconsider Change
West Order No. 5 to Construction Package C for the West Rehoboth
Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Mr.
Bozick advised that, following a review of the documents
relating to this Change Order, a credit has been received
for the concrete in the amount of \$1,740.00.

M 198 96 A Motion was made by Mr. Cole, seconded by Mr. Collins, based
Issue on the recommendation of the Inspection Engineer, George,
Change Miles & Buhr and the Sussex County Engineering Department,
Order that the Sussex County Council authorizes the President of
No. 5/ the Sussex County Council to issue Change Order No. 5, for
Contract the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer
C/ District, Contract C, Design Areas 5 and 19, to Lisbon Con-
West tractors, Inc., in the amount of \$16,694.94, for various
Rehoboth design changes as detailed in Change Order No. 5, with an
unrevised substantial completion date of December 29, 1995,
and increasing this contract amount to \$3,038,251.26, con-
tingent on the approval of the following agencies; Rural
Economic and Community Development and Department of Natural
Resources and Environmental Control.

Motion Adopted: 5 Yea.

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

Public Hearing/
Boundary Extension
Bethany Beach
SSD

A Public Hearing was held to consider extending the Bethany Beach Sanitary Sewer District to include a certain piece, parcel, or tract of land owned by R.D.M. Inc., also being known as "Savannah's Landing", on a parcel of land contiguous to the Bethany Beach Sanitary Sewer District, situate west of the Assawoman Canal and the Town of Bethany Beach and being situate in Baltimore Hundred, Sussex County, Delaware. The Public Hearing was closed.

M 199 96
Adopt
Resolu-
tion No.
R 015 96

A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Resolution No. R 015 96 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE BETHANY BEACH SANITARY SEWER DISTRICT (BBSSD) TO ENCOMPASS A CERTAIN PIECE, PARCEL, OR TRACT OF LAND CONTIGUOUS TO THE BBSSD, SITUATE WEST OF THE ASSAWOMAN CANAL AND THE TOWN OF BETHANY BEACH AND BEING SITUATE IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE."

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. Cole introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXPANSION TO AN EXISTING AUTO BODY REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS" (Conditional Use No. 1158) filed on behalf of Scott Bland. The Proposed Ordinance will be advertised for Public Hearing.

M 200 96
Recess

A Motion was made by Mr. Cole, seconded by Mr. Collins, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Dukes called Council back into session at 1:32 p.m.

Attorney Mr. Bayard, County Attorney was the attorney present for the afternoon session.

Public
Hearing
(C/U
No. 1152)

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 RETAIL SALES OF NEW AND USED ITEMS AND CONSIGNMENT SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.82 ACRES, MORE OR LESS" (Conditional Use No. 1152) filed on behalf of Connie Kay Cooper. The Public Hearing was closed.

M 201 96
Adopt
Ordinance
No. 1088

A Motion was made by Mr. Benson, seconded by Mr. Cole, to Adopt Ordinance No. 1088 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL

M 201 96
(con't)

DISTRICT FOR RETAIL SALES OF NEW AND USED ITEMS AND CON-SIGNMENT SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CON-TAINING 2.82 ACRES, MORE OR LESS" (Conditional Use No. 1152) filed on behalf of Connie Kay Cooper, with the following stipulations:

1. Site plan shall be subject to review and approval by the Planning and Zoning Commission with all appropriate agency approvals and permits.
2. The ingress/egress shall be located off of Road 395.
3. One unlit 4'x 8' sign may be permitted.
4. No yard sale type activities shall be conducted on site.

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 upon the following findings of fact:

1. The applicant established by substantial evidence that the proposed use will have no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area. In fact, the proposed use has the neighborhood's full support.
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.

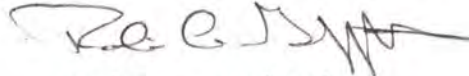
Public
Hearing
(C-2
Zoning)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO DEVELOPMENT IN THE C-1 GENERAL COMMERCIAL ZONING DISTRICT AND THE B-1 NEIGHBORHOOD BUSINESS ZONING DISTRICT, TO ADD A NEW PROVISION CREATING A C-2 SPECIAL COMMERCIAL ZONING DISTRICT, TO AMEND THE PROVISIONS RELATING TO OFF-STREET PARKING AND OFF-STREET LOADING, AND TO BRING OTHER PROVISIONS OF CHAPTER 115 IN CONFORMITY WITH THESE AMENDMENTS". Action on this Proposed Ordinance was deferred by the Planning and Zoning Commission on April 11, 1996. Public comments were heard. The Public Hearing was closed and the record was left open for an extended period of time.

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M 202 96 A Motion was made by Mr. Stevenson, seconded by Mr. Cole, to
Adjourn adjourn at 3:21 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council