

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 19, 1992

Call to
Order

The regular meeting of the Sussex County Council was held Tuesday, May 19, 1992, at 10:00 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware, with the following members present:

Dale R. Dukes	President
Ralph E. Benson	Vice President
George B. Cole	Member
George J. Collins	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 212 92
Approve
Minutes

A Motion was made by Mr. Collins, seconded by Mr. Benson, to approve the minutes of the previous meeting dated May 12, 1992. Motion Adopted by Voice Vote.

Letters

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

CHARLES P. WEST, STATE REPRESENTATIVE, STATE OF DELAWARE, DOVER
RE: Appreciation for the Proclamation for declaring May 2, 1992, Representative Charles P. West day.

RICHARD C. STAZESKY, PENINSULA UNITED METHODIST HOMES, INC.
WILMINGTON
RE: Thanking Mr. Dukes for attending the opening of the Bethany Wing at the Methodist Manor House in Seaford.

CHARLIE FLEETWOOD, CHAMBER OF COMMERCE, MILTON
RE: Invitation to attend the Open House for the new Chamber headquarters.

KENT-SUSSEX INDUSTRIES, INC., MILFORD
RE: May newsletter.

DOTTIE JOHNSON, SUSSEX COUNTY FRESH AIR FUND, SEAFORD
RE: Request for a donation to help defray operating expenses and to provide a recognition picnic.

M 213 92
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Benson, to give \$250.00, \$50.00 from each Councilmanic Account, to the Sussex County Fresh Air Fund.

Motion Adopted: 5 Yea.

M 213 92 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Letters KIMBERELY J. KOLLOCK, SUSSEX COUNTY COMMUNITY ACTION AGENCY,
(con't) INC., GEORGETOWN
RE: Requesting financial support of their program.

Mr. Stickels, County Administrator, stated that he would take this request under advisement and report back to Council.

West Mr. Green, Director of Utility Construction, reviewed Change
Rehoboth Order No. 3, for the West Rehoboth Expansion of the Dewey
Beach Sanitary Sewer District.

M 214 92 A Motion was made by Stevenson, seconded by Mr. Cole, that
West based on the recommendation of the Inspection Engineer, George,
Rehoboth Miles & Buhr, and the Sussex County Engineering Department,
Expansion that the Sussex County Council authorize the President of the
DBSSD Sussex County Council to issue Change Order No. 3, for the
Change West Rehoboth Expansion of the Dewey Beach Sanitary Sewer
Order District, Phase 1A, to Onshore Construction Co., Inc., for a
No. 3 time extension, until June 11, 1992, with zero dollars (\$0),
for no change in the contract amount.

Motion Adopted: 5 Yea.

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

Paramedic Mr. Harris, Paramedic Deputy Director, appeared before Council
Station regarding the leasing of a building in Frankford on the west
Lease side of Delaware Route 17, 1/3 mile south of County Road 353,
to house a paramedic facility. The lease of the building, at
the rate of \$750.00 per month, is for a four year period.

M 215 92 A Motion was made by Benson, seconded by Mr. Collins, that the
Paramedic President of the Sussex County Council be authorized to execute
Station the Lease Agreement with Lawrence C. Kelly of Ocean View,
Lease Delaware, for a paramedic facility, for a four year period, not
to exceed \$750.00 per month.

Motion Adopted: 5 Yea.

M 215 92 (con't) Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Sea Colony, Inc. Change of Zone No. 1153, filed on behalf of Sea Colony, Inc., was discussed. A Public Hearing was held on March 31, 1992, at which time the record was closed and action was deferred.
C/Z Mr. Lank, Director of Planning & Zoning, reviewed the eighteen
#1153 proposed stipulations.

M 216 92 Add Stip- A Motion was made by Mr. Cole to include a stipulation that
ulation there will be no disturbance of the 5.51 acres of wetlands.
Motion died for the lack of a second.

M 217 92 Deny A Motion was made by Mr. Cole, seconded by Mr. Stevenson, to
C/Z deny Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE
#1153 COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM MR MEDIUM-DENSITY
DENIED RESIDENTIAL DISTRICT TO HR-1/RPC HIGH DENSITY RESIDENTIAL/
RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING
AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 104.59
ACRES, MORE OR LESS" (C/Z #1153) filed on behalf of Sea Colony,
Inc.

Motion Denied: 4 Nay, 1 Yea.

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

M 218 92 Adopt Ordinance No. 829 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
C/Z Adopt Ordinance No. 829 entitled "AN ORDINANCE TO AMEND THE
#1153 COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM MR MEDIUM-DENSITY
RESIDENTIAL DISTRICT TO HR-1/RPC HIGH DENSITY RESIDENTIAL/
RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING
AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 104.59
ACRES, MORE OR LESS" (C/Z #1153) filed on behalf of Sea Colony,
Inc., with the following stipulations:

1. The maximum number of units shall not exceed 832.
2. A non-disturbance buffer shall be provided along the northern boundary of 70 feet.
3. A non-disturbance buffer shall be provided on the eastern boundary of property north of West Way Drive of 50 feet.

M 218 92
(con't)

4. Road improvements or contribution in lieu of shall be completed by the developer per requirements of DelDOT.
5. Greenway trail improvements along Assawoman Canal shall be completed by the developer per standards established and mutually agreed upon by the developer and the Division of Parks & Recreation of DNREC.
6. The development shall be a part of the County Sewer District and the design shall be as approved by the Sussex County Engineering Department.
7. Central water shall be provided by meeting regulations of DNREC, the Office of the State Fire Marshal, and the Division of Public Health.
8. Stormwater management and erosion control shall comply with all State and County Regulators.
9. No additional lands outside of the existing Sea Colony holdings and the area shown on the site plans for this application shall be annexed into the Sea Colony Developments.
10. The developer agrees to build one tennis court for every 65 dwelling units constructed along with required parking.
11. The developer agrees to build one swimming pool with appropriate support facilities and required parking for every 200 dwelling units constructed.
12. The developer is working with the Sea Colony Recreation Association and has committed to the joint development of a new four court indoor facility at the location of the existing tennis bubble. The developer will:
 - a. Build one additional court at the current indoor tennis bubble location being the fourth court in the structure (three courts exist). The court shall be in addition to the thirteen tennis courts stated in paragraph 10 herein.
 - b. Pay to modify the parking areas around the new tennis structure.
 - c. Make a cash contribution to the Recreation Association at the time of settlement of a new unit in an amount previously agreed to between the developer and the Recreation Association.
13. The current plan reflects an accumulation of tennis courts at the end of West Way which the developer intends to build

M 218 92
(con't)

during the project as provided in paragraph 10. The developer has been working with the Sea Colony Recreation Association on the eventual location of these courts. It has been determined that six courts may be located adjacent to and north of the new indoor tennis structure. The balance of the tennis courts and their specific location will be determined at a later point.

14. Sea Colony shall work with the Office of the State Fire Marshal and the Bethany Beach Volunteer Fire Company for dry hydrants installations if desired by the Office of the State Fire Marshal and/or Bethany Beach Volunteer Fire Company.
15. Only one duplex structure shall be constructed within the 170 feet width paralleling the west side of Lot No. 8, Walston Walk Court, Wilgus Subdivision.
16. The Developer shall not construct a fence along the western boundary of lots located in Wilgus Subdivision or within the 70 feet buffer adjacent to the western boundary of lots located in Wilgus Subdivision.
17. The areas to the south of Lot No. 8, Walston Walk Court, Wilgus Subdivision shall be landscaped by the developer for the purpose of reducing car lights from the adjacent parking lot and road entrance, utilizing photinia or other evergreen material. The area west of Lot No. 8 within the 70 feet buffer area shall be landscaped for the purpose of reducing vehicle lights. The cost is to be shared equally by the lot owner and the developer.
18. The Development shall be constructed in phases over an eight to ten year period subject to final site plan approval for each phase by the Sussex County Planning and Zoning Commission. No more than 150 units shall be issued building permits within any one year period.

Motion Adopted: 4 Yea; 1 Nay.

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

Findings of Fact Ordinance No. 829 The Council found that the change of zone from MR to HR-1/RPC was appropriate legislative action based upon the following findings of fact:

- A. (1) HR zoning is appropriate for this parcel of land. The purpose of a HR zoning district is to permit a variety

Findings
of Fact
(con't)

of housing types and provide for residential densities appropriate for areas served by public sewers and water systems and well located with respect to major roads, shopping and center of employment.

- (2) A RPC is appropriate for this parcel of land. The purpose of RPC is to encourage large scale development as a means to create a superior living environment and the use of design ingenuity while protecting existing and future uses.

The land of the applicant is appropriate for both the HR and RPC designation permitting 832 units.

B. The Proposed development is in accordance with the Coastal Sussex Land Use Plan:

- a. Located in the designated development district and central water and sewer are available.
- b. It utilizes the RPC which the Land Use Plan encourages for larger tracts of land.
- c. It provides for environmental considerations while providing housing, economic benefits and employment.
- d. It's in conformity with the land use map as an appropriate use.

C. The Sea Colony request promotes the health, safety, moral, convenience, order, prosperity and general welfare based on the evidence and testimony presented by the applicant including the following:

- (1) Based on the Traffic Impact Study and comments of the Delaware Department of Transportation, the development will not adversely impact traffic or the level of service of nearby intersections provided the applicant performs the road and intersection improvements recommended by DelDOT.
- (2) Adequate fire and police protection are available and applicant has a full time private security force.
- (3) The project is located in an area which is appropriate for HR zoning. There are existing HR zoned land located adjacent to the property. The development will be a continuation of the adjacent Sea Colony West development. While HR zoning would permit twelve units to an acre, the proposed RPC would be developed at eight units to an acre

Findings
of Fact
(con't)

or a total of 832 units. The Coastal Sussex Land Use Map recognizes HR zoning as an appropriate use of the land and the plans layout and buffers minimize any impact on the Bethany West subdivision located to the north.

- (4) That adequate central water and public sewer facilities are available and that there will be no adverse impact on nearby properties.
- (5) That the evidence submitted by the applicant addressing storm water management, drainage, setbacks and the availability of central water and sewer adequately protects against any negative environmental impact.
- (6) That adequate utility services, medical facilities, and shopping areas are available and there will be a positive benefit to the Indian River School District due to tax benefits with little additional enrollment.
- (7) That adequate on site recreation facilities exist and more will be provided including pools, tennis courts, hiking and biking trails and the applicant is providing a public greenways trail along the Assawoman Canal supported by the Division of Parks and Recreation. In addition to these recreational facilities, this development, unlike most other developments, has a private ocean beach which residents can use as well as State Park and municipal beaches. The total recreational facilities are substantial and adequate.
- (8) That the development will provide a substantial direct economic impact to the County in terms of jobs, payrolls, sewer fees, property taxes, school taxes and transfer taxes, and will provide a substantial secondary economic impact to area businesses.
- (9) That the property is located in an existing residential area designated as the development district and the proposal will not adversely affect agriculture.
- (10) That the character of the existing area is residential including HR density, that the site is suitable and appropriate for the proposed use, and does not appear to have any adverse impact on property values or natural resources, and the proposed use is in accordance with the County's Land Use Plan.

D. The findings and conclusion stated herein are based on substantial evidence comprised of the reasons stated above,

Findings
of Fact
(con't)

the testimony and evidence presented by the applicant, and those findings of the Planning and Zoning Commission which support the Planning and Zoning Commission's recommendation of approval.

Proposed
Ordinance

Mr. Stevenson introduced 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 CERTAIN PARCELS OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 9.0 ACRES, MORE OR LESS" (C/Z #1166), filed on behalf of Joe C. and Toni Johnson. The Proposed Ordinance will be advertised for Public Hearing.

M 219 92
Executive

A Motion was made by Mr. Benson, seconded by Mr. Collins, that the Sussex County Council authorizes the scheduling of an Executive Session to be held on Tuesday, May 26, 1992, at 9:30 a.m., in the Sussex County Council Chambers, Sussex County Courthouse, to discuss pending litigation.

Motion Adopted: 5 Yea.

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

Millville
Zoning
Mora-
torium

Mr. Stickels, County Administrator, advised that the Town Council of the Town of Millville enacted the Zoning Ordinance on Wednesday, May 13, 1992. On this basis, the Town of Millville is requesting that the Sussex County Council relinquish its authority over zoning matters in the Town of Millville.

M 220 92
Millville
Zoning
Relin-
quish
Authority

A Motion was made by Mr. Cole, seconded by Mr. Collins, that the Sussex County Council relinquish its authority over zoning matters in the Town of Millville.

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

Adminis-
trator's
Report

1. Route 1 Corridor-Preservation Program

On Wednesday, May 13, 1992, Mr. Lank, Director of Planning and Zoning, and Mr. Stickels, County Administrator, attended a workshop with the Delaware Department of Transportation regarding the Route 1 Corridor-Preservation Program. The portion of Route 1 included in this program extends from the Dover Air Force Base south to the southern end of the Nassau bypass. The Frederica, Milford, and Argos Corner bypasses, as well as the Nassau bypass, are already limited access sections which do not require any additional action for improvement. The Route 1 Corridor-Preservation Committee will meet on a regular basis to review zoning applications, as well as development of any existing zoning that is in place along the Route 1 roadway. A pamphlet outlining the program was included in the report.

Present
Fiscal
1993
Budget

Mr. Stickels, County Administrator, presented the Sussex County Fiscal 1993 Budget for General Fund, Bond Issues, Community Development Programs, Sewer and Water Districts, and Capital Improvement Program Forecasts and read in its entirety his budget letter. Copies of the budget are available. A Public Hearing thereon will be held June 9, 1992, at 11:00 a.m. in the Council Chambers. At that time and place, all persons interested shall have a reasonable opportunity to be heard.

M 221 92
Council-
manic
Grant

A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to give \$400.00, \$200.00 from Mr. Stevenson's Councilmanic Account and \$200.00 from Mr. Benson's Councilmanic Account, to the Miss Georgetown Pageant.

Motion Adopted: 5 Yea.

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

M 222 92
Council-
manic
Grant

A Motion was made by Mr. Collins, seconded by Benson, to give \$100.00 from Mr. Dukes' Councilmanic Account to the Town of Laurel to help fund the 4th of July fireworks display.

Motion Adopted: 5 Yea.

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

M 223 92 Councilmanic Grant A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to give \$750.00, \$500.00 from Mr. Dukes' Councilmanic Account and \$250.00 from Mr. Stevenson's Councilmanic Account, to the City of Seaford to help with expenses to ready the Seaford Community Pool for the upcoming season.

Motion Adopted: 5 Yea.

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

M 224 92 Recess A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Workshop At 1:30 p.m., Council reconvened for a workshop session for the purpose of a Memorandum of Understanding extension study regarding the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Present were Edwin H. Clark II, Secretary, DNREC; Gerard Esposito, DNREC; Steve Carlson, DNREC; Jim Thomas, George, Miles & Buhr; Peter Bozick, George, Miles & Buhr; John Nelson, Whiting-Turner; Paul Schwarzenberg, Whiting-Turner; Robert Wood, Sussex County; and Garth Jones, Sussex County.

On April 7, 1992, Sussex County Council was given a review of the Value Engineering Study as proposed by Roy F. Weston, Inc. and the response to the study by George, Miles & Buhr. The outcome of the study, and George, Miles & Buhr's response, was a recommendation for an eighteen month extension of the Memorandum of Understanding implementation in order to permit specific potential cost reducing studies and evaluations to be made. As a result, Sussex County Council made a request to DNREC for an eighteen month extension of the Memorandum of Understanding completion date (January 1, 1994) to permit the Value Engineering recommended studies to be completed.

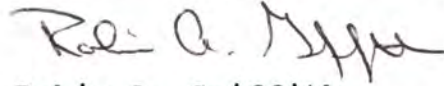
A discussion was held regarding the alternatives to be investigated during the requested Memorandum of Understanding extension period, including regionalized treatment at Rehoboth Beach, separate treatment - joint disposal at Hercules, and privatization.

As a result of the workshop, Secretary Clark advised that DNREC will agree to the extension.

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M 225 92 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Adjourn adjourn at 3:10 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council