

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-MAY 29, 1990

Call to  
Order

The regular meeting of the Sussex County Council was held on Tuesday, May 29, 1990, at 10:00 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware with the following members present:

William D. Stevenson, Sr.	President
R. James Mariner	Vice President
Ralph E. Benson	Member
George B. Cole	Member
Dale R. Dukes	Member

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

M 252 90  
Approval  
of Minutes

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to approve the minutes of the previous meeting as submitted. Motion Adopted by Voice Vote.

Corre-  
spondence

Mr. Jones, Assistant County Attorney, read the following correspondence:

WILLIAM SHEDAKER, NANTICOKE LITTLE LEAGUE, INC., SEAFORD, DELAWARE  
RE: Thanking Council for their contribution which allowed the league to repair bleachers.

C. RUSSELL MCCABE, SUSSEX COUNTY RECORDER OF DEEDS, GEORGETOWN, DELAWARE  
RE: Letter requesting Council's consideration to amend the County's Merit System rules and regulations to include employees of Row Offices.

Mr. Stickels will meet with Dennis Cordrey, Personnel Director, to investigate this request and report back to Council.

MICHAEL N. CASTLE, GOVERNOR, STATE OF DELAWARE  
RE: Extending his regrets in not being able to attend the Council's recent Thirteenth Annual Prayer Breakfast.

DIVISION OF AIR AND WASTE MANAGEMENT, DOVER, DELAWARE  
RE: Legal Notice of applications recently filed with the Air Resources Section.

U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA, PENNSYLVANIA  
RE: A Public Notice to solicit comments and recommendations from the public concerning issuance of a permit for the extension of an existing dock along an existing bulkhead located in and along White Oak Creek at 29 Westside Drive, Rehoboth Beach.

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DelDOT/  
Wetlands  
Mitigation

Frederick H. Schranck, Deputy Attorney General assigned to the State of Delaware's Department of Transportation, presented Council with draft copies of legislation which would exempt DelDOT transportation projects from the zoning authority of Counties and municipalities when the project involves wetlands mitigation efforts and/or the use of fill from wetlands creation or extension for transportation projects. Additionally, DelDOT's wetlands activities would continue to be coordinated with DNREC and the appropriate Federal authorities. Mr. Schranck stressed to Council that this bill is only under consideration by DelDOT and it is only their desire, at this time, to receive input from local governments about such legislation. A copy of this draft bill has also been sent to DNREC for their comments. Concern was raised by Council of whether this legislation would essentially allow the State to create borrow pits. Mr. Schranck said this would not be the situation since this legislation is so limited to wetlands creation. Mr. Schranck stated that this bill is attempting to address those sites which have been identified in the planning process as suitable for wetlands creation on which suitable fill exists if they can take the fill off and create the wetlands. After much discussion, it was the consensus of the Council, and the recommendation of Mr. Stickels, to require DelDOT to go through the County's established zoning process for projects involving wetlands mitigation efforts and/or the use of fill from wetlands creation or extension for transportation projects. This would also allow the public the opportunity to voice their opinion by requiring a Public Hearing. Council's decision also follows an established ruling made by Council on March 27, 1990 (M 158 90) which requires the State of Delaware to go through the County's established zoning process in obtaining approval for a borrow pit.

Amend Ord.  
No. 11/  
Sick and  
Vacation  
Leave for  
County  
Employees

Mr. Dennis V. Cordrey, Director of Personnel for Sussex County, was present to review with Council a proposed Ordinance amending Ordinance No. 11 relating to sick and vacation leave for County employees. Mr. Cordrey informed Council that the major change proposed to the ordinance is in the computation and usage of sick and vacation time from quarter-day increments to hourly increments. Mr. Stickels informed Council that both he and Mr. Cordrey will meet with the newly formed Employees Advisory Committee to receive their input prior to the County's Public Hearing.

Proposed  
Ordinance/  
County  
Sick and  
Vacation  
Leave

Mr. Stevenson introduced a Proposed Ordinance entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11, AS AMENDED, ARTICLE 16, RELATING TO SICK LEAVE AND VACATION LEAVE FOR COUNTY EMPLOYEES". This Proposed Ordinance will be advertised for a Public Hearing.

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Request/  
Shore  
Disposal  
Company,  
Inc.

Mr. Stickels, County Administrator, reported to Council that a request had been received from Shore Disposal Company, Inc. asking Council to grant permission for the dumping of waste from portable toilets at the South Coastal Treatment Plant. Mr. Stickels informed Council that he has met with the operators of the County's South Coastal Regional Wastewater Facility and it is their recommendation that this request not be granted. It was the consensus of the Council to deny this request. All future requests of this type will be handled directly by Mr. Stickels.

County's  
Glass  
Recycling  
Program

Mr. Stickels, County Administrator, presented Council with a chart regarding Sussex County's Glass Recycling Program. Council was informed that the total glass collected for February, March and April of 1990 was 139,200 pounds, which is 67,700 pounds more than the second quarter of last year. The total year to date figure is 241,150 pounds, which is 128,700 pounds more than the same time last year.

County  
Libraries/  
Services  
Provided

Mr. Stickels, County Administrator, submitted Council with a listing of over 75 activities provided at the various Public Libraries in Sussex County. Mr. Stickels stated that he felt all residents in the County were not aware of these opportunities and services.

Dagsboro/  
Frankford  
Sanitary  
Sewer  
District

Mr. Russell Archut, Chief of Planning and Permits, appeared before Council regarding a proposed option agreement for a parcel of land owned by Sherman Townsend to be used as a potential treatment and spray irrigation site for the Dagsboro-Frankford Sewer District. Mr. Cole expressed concern in making literature, pamphlets, videos, etc. available to the public to help in understanding spray irrigation. Mr. Peter Lowenstein was in attendance and presented Council with a petition in opposition of the property owned by E. J. Steen and in favor of the parcel owned by Sherman Townsend as the potential treatment and spray irrigation site for the Dagsboro/Frankford Sanitary Sewer District.

M 253 90  
Option  
Agreement/  
Dagsboro-  
Frankford  
Sanitary  
Sewer  
District

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, that the President of the Sussex County Council be authorized to sign a six (6) month option agreement with Sherman L. Townsend for the purchase of 125± acres at a price of \$4,000 per acre as a potential treatment and spray irrigation site for the Dagsboro-Frankford Sanitary Sewer District. The Price of the Option to be \$10.00. Motion Adopted: 5 Yea.

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(Cont.)

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

Proposed  
Ordinance  
C/U #942

Mr. Mariner introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXTENSION TO AN EXISTING MOBILE HOME PARK FOR 35 ADDITIONAL LOTS AND AN AREA FOR DISPOSAL FIELDS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 46.22 ACRES, MORE OR LESS" (C/U #942) filed on behalf of Homestead Associates, Inc. This Proposed Ordinance will be advertised for a Public Hearing.

Proposed  
Ordinance  
C/U #943

Mr. Benson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR'S EQUIPMENT AND STORAGE GARAGE AS AN ACCESSORY TO A RESIDENCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.92 ACRES, MORE OR LESS" (C/U #943) filed on behalf of Phillip T. Bradley and Fran W. Bradley. This Proposed Ordinance will be advertised for a Public Hearing.

Proposed  
Ordinance  
C/U #944

Mr. Benson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTRACTOR'S EQUIPMENT YARD AND OFFICE AS AN ACCESSORY TO HIS RESIDENCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.509 ACRES, MORE OR LESS" (C/U #944) filed on behalf of Stephen T. Brittingham. This Proposed Ordinance will be advertised for a Public Hearing.

Proposed  
Ordinance  
C/Z #1080

Mr. Benson introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 7,534 SQUARE FEET, MORE OR LESS" (C/Z #1080) filed on behalf of Billy Martin. This Proposed Ordinance will be advertised for a Public Hearing.

Proposed  
Ordinance  
C/Z #1081

Mr. Dukes introduced a 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,

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(Cont.)

CONTAINING 2.93 ACRES, MORE OR LESS" (C/Z #1081) filed on behalf of Phillips Outdoor Advertising. This Proposed Ordinance will be advertised for a Public Hearing.

Proposed Ordinance  
C/Z #1082

Mr. Dukes introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 19,812 SQUARE FEET, MORE OR LESS" (C/Z #1082) filed on behalf of Melissa E. K. Smith. This Proposed Ordinance will be advertised for a Public Hearing.

Proposed Ordinance  
C/Z #1083

Mr. Benson introduced a 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.3 ACRES, MORE OR LESS" (C/Z #1083) filed on behalf of Ed Fleming. This Proposed Ordinance will be advertised for a Public Hearing.

Proposed Ordinance  
C/Z #1084

Mr. Benson introduced a 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.05 ACRES, MORE OR LESS" (C/Z #1084) filed on behalf of Lewes Refrigeration and Air Conditioning, Inc. This Proposed Ordinance will be advertised for a Public Hearing.

M 254 90  
Subdivision  
No. 89-21

A Motion was made by Mr. Mariner, seconded by Mr. Benson, to Adopt the Plat Plan for Subdivision No. 89-21, Lakeview Estates, Section II. Motion Adopted: 5 Yea.

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

M 255 90  
Subdivision  
No. 88-29

A Motion was made by Mr. Dukes, seconded by Mr. Stevenson, to Adopt the Plat Plan for Subdivision No. 88-29, The Bluffs at Sandy Landing. Motion Adopted: 4 Yea; 1 Nay.

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

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M 256 90  
Subdivision  
No. 88-36

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt the Plat Plan for Subdivision No. 88-36, Swan Estates, Section II. Motion Adopted: 5 Yea.

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

MacNamara  
v. Sussex  
County  
Council/  
Litigation  
Update

Robert V. Witsil, Jr., Esquire, and former County Attorney, was present to update Council regarding MacNamara v. Sussex County Council (U.S. Federal District Court C.A. 89-625). Mr. Witsil reported that the lawsuit filed by the opponents to the Delaware Electric Cooperative zoning application has been dismissed in Federal District Court. District Court found that no personal or property interest of the opponents was affected by the Council's zoning decision. After a dismissal at the District Court level, an appeal must be filed within 30 days to the U. S. Circuit Court of Appeals in Philadelphia, Pennsylvania.

Litigation  
Update/  
Fenwick  
Island  
Water  
District  
Case  
(Steele  
& Rickard)

Mr. Witsil, Esquire, also informed Council that both he and Mr. Wood, County Engineer, appeared before Vice-Chancellor Berger on May 25, 1990 (in Wilmington) in regard to the Steele and Rickard's Fenwick Island Water District Case. A decision was not reached by Vice-Chancellor Berger, but the Court is aware of the urgency of this decision. It is expected that a decision will be reached in the very near future.

M 257 90  
Recess

At 11:22 a.m., a Motion was made by Dukes, seconded by Mr. Stevenson, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Council reconvened at 1:30 p.m.

Public  
Hearing  
C/U #933  
Action  
Deferred

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR AN OFFICE, STORAGE, AND PARKING FOR A GENERAL CONTRACTOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.64 ACRES, MORE OR LESS" (C/U #933) filed on behalf of Victor H. Laws, Sr./R & W Contractors. The Public Hearing was closed and action was deferred.

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Public  
Hearing  
C/Z #1063  
Action  
Deferred

A Public Hearing was held on 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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 5.62 ACRES, MORE OR LESS" (C/Z #1063) filed on behalf of John H. Parker. The Public Hearing was closed and action was deferred.

Public  
Hearing  
C/Z #1064

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A RPC RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20.67 ACRES, MORE OR LESS" (C/Z #1064) filed on behalf of Carl M. Freeman Associates, Inc.

M 258 90  
Recess

At 4:15 p.m., a Motion was made by Mr. Benson, seconded by Mr. Cole, to declare a 5 minute recess. Motion Adopted by Voice Vote.

Reconvene

Council reconvened at 4:20 p.m.

C/Z #1064  
Action  
Deferred

The Public Hearing on C/Z #1064, filed on behalf of Carl M. Freeman Associates, Inc., was closed and action deferred. The record will be left open for only the purpose of having the applicants submit a drawing which would show what the site would look like with a MR Subdivision as opposed to the proposed RPC rezoning.

Public  
Hearing  
C/Z #1065

A Public Hearing was held on 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.72 ACRES, MORE OR LESS, OF A 5.44 ACRE TRACT" (C/Z #1065) filed on behalf of John J. Barranger, II.

M 259 90  
Adopt  
Ordinance  
No. 683  
(C/Z #1065)

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to Adopt Ordinance No. 683 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.72 ACRES, MORE OR LESS, OF A 5.44 ACRE TRACT" (C/Z #1065) filed on behalf of John J. Barranger II. Motion Adopted: 5 Yea.

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(Cont.)

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

Findings  
of Facts  
C/Z #1065

The findings of facts and the recommendations of the Planning and Zoning Commission are incorporated into the record and into the findings of facts of the Council. The Council found that the change of zone was appropriate legislative action based upon its findings that the proposed land use promotes the health, safety, morale, convenience, order, prosperity and welfare of the present and future habitants of Sussex County.

Public  
Hearing  
C/Z #1066

A Public Hearing was held on 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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.38 ACRES, MORE OR LESS" (C/Z #1066) filed on behalf of Dennis N. O'Neal.

M 260 90  
Adopt  
Ordinance  
No. 684  
(C/Z #1066)

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to Adopt Ordinance No. 684 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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.38 ACRES, MORE OR LESS" (C/Z #1066) filed on behalf of Dennis N. O'Neal. Motion Adopted: 5 Yea.

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

Findings  
of Facts  
C/Z #1066

The findings of facts and the recommendations of the Planning and Zoning Commission are incorporated into the record and into the findings of facts of the Council. The Council found that the change of zone is appropriate legislative action based upon its findings that the proposed land use promotes the health, safety, morale, convenience, order, prosperity and welfare of the present and future habitants of Sussex County.

M 261 90  
Bethany 4th  
of July  
Committee/  
Council-  
manic  
Grant

A Motion was made by Mr. Cole, seconded by Mr. Mariner, to grant \$300.00 from Mr. Cole's Councilmanic Account to the Bethany Beach 4th of July Committee to help with this year's parade and other scheduled events. Motion Adopted: 5 Yea.

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(Cont.)

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

M 262 90  
Reappoint  
John Allen  
to P & Z  
Commission

A Motion was made by Mr. Benson, seconded by Mr. Dukes, to reappoint Mr. John L. Allen to another three year term on the County's Planning and Zoning Commission; such term would expire June 30, 1993. Motion Adopted: 4 Yea; 1 Nay.

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

M 263 90  
Adjournment

At 4:54 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Stevenson, to adjourn. Motion Adopted by Voice Vote.

Respectfully submitted,

*Nancy Cordrey*

Nancy J. Cordrey  
Acting Clerk of the County Council