

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 13, 1995

Executive Session An Executive Session of the Sussex County Council was held Tuesday, June 13, 1995, at 9:00 a.m., in the Council Chambers, Courthouse, Georgetown, Delaware, for the purpose of discussing land acquisition and pending litigation.

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 13, 1995, 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 249 95 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to Approve Minutes approve the minutes of the previous meeting dated June 6, 1995. Motion Adopted by Voice Vote.

Corre- Mr. Bayard, County Attorney, read the following correspondence: spondence

BEVERLY J. ROUPP, CHAIRMAN, FAMILIES IN CRISIS, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Council's contributions to the conference.

JANET LEE, SECRETARY, LAUREL CHAMBER OF COMMERCE, LAUREL, DELAWARE.

RE: Letter to Mr. Dukes in appreciation of his Councilmanic Grant in the amount of \$500.00 toward Laurel's Independence Day Celebration.

BARBARA MACCOY.

RE: Letter to Mr. Stickels commending Mr. Robert Betts of the Planning and Zoning Department.

DANIEL BURRIS, SR., PHB GENERAL CONTRACTORS INC., MIDDLETOWN, DELAWARE.

RE: Letter to Council commending Mr. Van Milligan of the Building Code Department.

Deposit Accounts Mr. Baker, Finance Director, discussed a proposal to open two new deposit accounts at Delaware National Bank; one for HPG-95 grant funds and one for CDBG 03-95 grant funds.

M 250 95 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to Adopt Resolution No. R 013 95 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE DELAWARE NATIONAL BANK BEARING THE SIGNATURES OF ANY TWO OF DALE DUKES, PRESIDENT; GEORGE J. COLLINS, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

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

Proposed Cedar Neck Expansion of the Bethany Beach SSD Mr. Archut, Director of Planning and Permits, provided an update on the Proposed Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District. In December, 1994, a pre-application for funding consideration was prepared and submitted to Rural Economic and Community Development Service (RECD/USDA). Mr. Archut advised that a response has been received from RECD/USDA informing Council that an application should be submitted by July 1, 1995.

M 251 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, that the Sussex County Engineering Department is hereby directed to prepare an application to the Rural Economic and Community Development Service (RECD/USDA) for funding assistance for the Proposed Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District.

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

Shady Park-Fenwick Island SSD Mr. Green, Director of Utility Construction, discussed (1) Conditional Acceptance for the Pumping Station and (2) Beneficial Acceptance for the Gravity and Force Main Wastewater Facilities in Shady Park, Phase III, Section IIB, located in the Fenwick Island Sanitary Sewer District.

M 252 95 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, that the Sussex County Council grant Conditional Acceptance for the Pumping Station constructed in Shady Park, Phase III, Section II B, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

M 252 95 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Absent;
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

M 253 95 A Motion was made by Mr. Stevenson, seconded by Mr. Benson,
Grant based upon the recommendation of the Sussex County Engineer-
Bene- ing Department, for Sussex County Project No. 81-04, that
ficial the Sussex County Council grant Beneficial Acceptance for
Accep- the Gravity and Force Main Wastewater Facilities constructed
tance in Shady Park, Phase III, Section II B, located in the Fenwick
Shady Island Sanitary Sewer District.
Park-
Fenwick
Island
SSD

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

Mr. Cole joined the meeting at this time.

Airport Mr. Izzo, Director of Public Works, discussed a balancing
Project change order and the granting of Substantial Completion for
the Project entitled "Runway 4-22 Rehabilitation".

M 254 95 A Motion was made by Mr. Collins, seconded by Mr. Benson,
Approve based upon the recommendation of the Sussex County Engineering
Change Department, that Change Order No. 1 for the Project entitled
Order "Runway 4-22 Rehabilitation" and identified as AIP Project No.
for 3-10-0007-04 be approved to increase the contract time from
Runway 90 to 109 calendar days, and provide a credit of \$22,635.87
4-22 that decreases the contract total from \$1,579,952.50 to
Rehabili- \$1,557,316.63.
tation

Project Motion Adopted: 5 Yea.

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

M 255 95 A Motion was made by Mr. Cole, seconded by Mr. Benson, based
Grant upon the recommendation of the Sussex County Engineering
Substan- Department, for the project entitled "Runway 4-22 Rehabilita-
tial tion" and identified as AIP Project No. 3-10-0007-04, that
Comple- the Contractor, SPARR Associates, Inc. of Salisbury, Maryland,
tion for be granted Substantial Completion effective April 22, 1995,
Runway and that all retainage being held be released pending com-
4-22 pletion of any outstanding punch-list items.
Rehabili-
tation

Project Motion Adopted: 5 Yea.

M 255 95 (con't) Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Proposed Proclamation Mr. Stickels, County Administrator, read in its entirety a Proposed Proclamation entitled "PROCLAIMING TUESDAY, JUNE 13, 1995, AS A DAY TO HONOR MARSHALL W. JONES".

M 256 96 Adopt Proclamation A Motion was made by Mr. Stevenson, seconded by Mr. Cole, to Adopt the Proclamation entitled "PROCLAIMING TUESDAY, JUNE 13, 1995, AS A DAY TO HONOR MARSHALL W. JONES".

Honoring Motion Adopted: 5 Yea.

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

Mr. Dukes presented the Proclamation to Mr. Jones.

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

1. Coastal Stock Tab Property

The Coastal Stock Tab property located at the Sussex County Industrial Park has been transferred to the County Council. The Sussex County Economic Development Office has prepared an advertisement which will appear in the following publications:

Wall Street Journal, covering Washington, D.C.; Baltimore, Maryland; and Richmond, Virginia.

Philadelphia Business Journal, covering Camden, New Jersey; Philadelphia, and northern Delaware.

Delaware Business Review, covering the entire State of Delaware.

Salisbury Daily Times, covering Sussex County, eastern shore of Maryland, and Virginia.

Baltimore Sun, covering Maryland, parts of Pennsylvania, Delaware, Virginia, and Washington, D.C.

Wilmington News Journal, covering Delaware, Pennsylvania, New Jersey, and Maryland.

Sussex County Business Ledger, covering Kent and Sussex Counties.

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trator's
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Washington Post, covering D.C. and parts of Maryland, Delaware, and Virginia.

Tri-State Real Estate Journal, covering New Jersey, Delaware, and Pennsylvania.

In addition to the ad that will appear in the classified section, some of the publications have indicated that they will also be doing a story on the proposal.

All proposals for the use of the property are to be submitted to the Sussex County Economic Development Office by the close of business on July 31, 1995.

2. Rodent Control

The County has received a grant in the amount of \$18,000 from the State of Delaware Department of Health and Social Services. The funding from the grant is to be used for the elimination of known areas of rat and rodent harborage. Funding can be used for the removal of piles of debris and cutting of areas of overgrown weeds and grass. Anyone interested in applying for these funds should contact John Argo, Solid Waste Department, at 855-7818.

3. Troop 4 Status Report - Month of April

The following hours of duty and enforcement were compiled by the uniformed officers at Troop 4, Georgetown, Delaware, during the month of April 1995:

Total Hours On Duty	3,434
Hours Assisted Other Agencies	42.5
Total Traffic Arrests	726
Total DUI Arrests	29
Accident Reports: Property Damage	33
Personal Injury	<u>12</u>
Total Accident Reports	45
Criminal Arrests: Felony	8
Misdemeanor	<u>119</u>
Total Criminal Arrests	127
Total 10-29 P's (wanted persons)	56
Total Number of Complaints	523

4. Planning Workshop

The Sussex County Council and the State Planning Department will be co-hosting a workshop on Wednesday, June 14, 1995,

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entitled "Our Town? Alternatives to Sprawl". The workshop will be transmitted statewide by satellite and will be aired live. Participants should arrive at the Jason Building's Delaware and Sussex Rooms, Delaware Technical & Community College, Southern Campus in Georgetown, by 4:15 p.m. Satellite transmission will begin promptly at 4:30 p.m. and will end at 6:00 p.m. Mr. Jack Tarburton, Secretary of the State of Delaware, Department of Agriculture, and Mr. Lawrence Lank, Director of Planning and Zoning, will conduct a discussion period after the workshop.

Recess At 10:30 a.m., Mr. Dukes declared a recess until 11:00 a.m.

Reconvene At 11:01 a.m., Mr. Dukes called Council back into session.

Attorney Mr. Jones, Assistant County Attorney, was the Attorney present for the following Public Hearing.

Public Hearing A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY TO PROVIDE FOR THE IMPOSITION AND COLLECTION OF A MOBILE HOME PLACEMENT TAX WITHIN THE UNINCORPORATED AREAS OF SUSSEX COUNTY". Public comments were heard and the Public Hearing was closed.

M 257 95 A Motion was made by Mr. Cole, seconded by Mr. Collins, to
Adopt Ordinance No. 1033 THE CODE OF SUSSEX COUNTY TO PROVIDE FOR THE IMPOSITION AND
COLLECTION OF A MOBILE HOME PLACEMENT TAX WITHIN THE UN-
INCORPORATED AREAS OF SUSSEX COUNTY".
Mobile Home Placement Tax
Motion Adopted: 5 Yea.
Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

M 258 95 At 11:28 a.m., a Motion was made by Mr. Stevenson, seconded
Recess by Mr. Collins, to recess until 1:30 p.m. Motion Adopted by
Voice Vote.

Reconvene Mr. Dukes called Council back into session at 1:30 p.m.

Public Hearing (C/U No. 1116) 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 A CONTINUED USE OF A PRIVATE AIRSTRIP FOR A BANNER TOWING SERVICE (CONDITIONAL USE NO. 939) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 9.86 ACRES, MORE OR LESS" (Conditional Use No. 1116) filed on behalf of Atlantic Coastal Aerial Advertising. The Public Hearing was closed.

M 259 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Adopt Ordinance No. 1034 entitled "AN ORDINANCE TO GRANT A
Ordinance No. 1034 (C/U) No. 1116) DISTRICT FOR A CONTINUED USE OF A PRIVATE AIRSTRIP FOR A
BANNER TOWING SERVICE (CONDITIONAL USE NO. 939) TO BE LO-
CATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN
RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 9.86 ACRES, MORE
OR LESS" (Conditional Use No. 1116) filed on behalf of
Atlantic Coastal Aerial Advertising, with the following
stipulations:

1. Hours of operation shall be from 10:00 a.m. to 4:00 p.m.,
May 15 through September 15.
2. No aircraft shall be stored on-site.
3. No aircraft shall utilize the airstrip other than the
three (3) aircraft being used for the private business.
4. There shall be a ten (10) year limit to the use of the
property as an airstrip.
5. Toilet facilities shall be located on-site.
6. No advertising signs may be located on-site.
7. One 8' x 10' building shall be permitted on site.
8. All aircraft shall be baffled.
9. There shall be no adverse impact on poultry operations.

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 is appropriate
legislative action based upon the following findings of fact:

1. The applicant established by substantial evidence that the
proposed use is an existing use created by Conditional Use
No. 939 and a successful small business serving the coastal
and beach areas.
2. The applicant established by substantial evidence that the
use has had and will have no adverse impact on the charac-
ter of the community, property values therein, the environ-
ment or traffic in the area.

Findings
of Fact
(con't)

3. The use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1117)

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 MODEL HOMES SALES AND DISPLAY LOT (MAXIMUM OF FIVE HOMES AT A TIME) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.21 ACRES, MORE OR LESS" (Conditional Use No. 1117) filed on behalf of Angola Community Partners, L.L.C.

M 260 95
Adopt
Ordinance
No. 1035
(C/U
No. 1117)

A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Ordinance No. 1035 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MODEL HOMES SALES AND DISPLAY LOT (MAXIMUM OF FIVE HOMES AT A TIME) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.21 ACRES, MORE OR LESS" (Conditional Use No. 1117) filed on behalf of Angola Community Partners, L.L.C., with the following stipulations:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. All models shall be skirted.
3. Access to the site shall be limited to the Rehoboth Mall entrance road.
4. The conditional use will continue for the term of the existing lease or that lease, if extended.

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 property subject to Conditional Use No. 1117 is located on Route 24 at the service road to the Rehoboth Mall. The subject corner is served by an existing traffic light.
2. The subject property is located within a development area of the South Coastal Land Use Plan.

Findings
of Fact
(con't)

3. The Department of Transportation has found that the property without the conditional use could be developed as two residential units, and the subject conditional use would have no negative impact on the traffic burdens on Route 24 or cause any significant increase in traffic above that allowed by development under the existing zoning.
4. The subject property is located immediately across Route 24 from lands recently rezoned C-1, and is located adjacent to other commercial lands and along the Rehoboth Mall service road.
5. The subject property is uniquely situated for business use in that it is located on a section of Route 24 which has recently been widened, and the corner is served by an existing traffic light.
6. The Sussex County Council finds that the property could be rezoned B-1 or C-1 under the Comprehensive Land Use Plan, but the conditional use as applied for by the applicant allows the County to limit the types of business use.
7. The applicant proposes five model homes for display; and such a business use is less traffic generating than would be the spectrum of allowed uses under the C-1 or B-1 rezoning.
8. The Sussex County Zoning Code, pursuant to Article XXIV § 115-171 allows for conditional use approvals of business use while affording the County the ability to impose limitations on the nature of the business that can be operated to better adjust the parcel to the environment than would be a rezoning at B-1 or C-1.
9. The proposed use possesses an important relationship to the Comprehensive Development Plan in that the subject property is in a development zone and the conditional use mechanism allows for limitations on the type of business uses that can be placed.
10. The conditional use better secures a business use compatible with the nearby residential properties, including the Maplewood Subdivision, than would a rezoning without restriction.

Public
Hearing
(C/U
No. 1118)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A CREMATORIUM WITHIN A FUNERAL HOME TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.02 ACRES, MORE OR LESS" (Conditional Use No. 1118) filed on behalf of Eastern Shore Crematorium, Inc. The Public Hearing was closed.

M 261 95 A Motion was made by Mr. Cole, seconded by Mr. Collins, to
Adopt Ordinance No. 1036 entitled "AN ORDINANCE TO GRANT A
Ordinance No. 1036 CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT
(C/U FOR A CREMATORIUM WITHIN A FUNERAL HOME TO BE LOCATED ON A
No. 1118) CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH
HUNDRED, SUSSEX COUNTY, CONTAINING 2.02 ACRES, MORE OR LESS"
(Conditional Use No. 1118) filed on behalf of Eastern Shore
Crematorium, Inc.

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 serve the public need and convenience and will be enclosed with a structure, fully permitted, and under construction on a general commercial site.
2. The applicant established by substantial evidence that the proposed use will have no adverse impact on the character of the neighborhood, property values therein, the environment or traffic in the area.
3. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing (C/U No. 1119) 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 SALES AND REPAIRS OF FIREARMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 38,572.38 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1119) filed on behalf of Samuel Burton Culver and Dona Helen Culver. The Public Hearing was closed.

M 262 95 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to Adopt Ordinance No. 1037 entitled "AN ORDINANCE TO GRANT A
Ordinance No. 1037 CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL
(C/U DISTRICT FOR SALES AND REPAIRS OF FIREARMS TO BE LOCATED ON
No. 1119) A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK
HUNDRED, SUSSEX COUNTY, CONTAINING 38,572.38 SQUARE FEET,
MORE OR LESS" (Conditional Use No. 1119) filed on behalf of
Samuel Burton Culver and Dona Helen Culver.

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M 262 95 Motion Adopted: 5 Yea.
(con't)

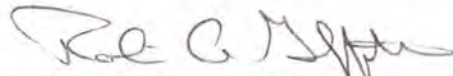
Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

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 serve the public convenience and will have no adverse impact on the character of the neighborhood, property values therein, the environment or traffic in the area.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 263 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Adjourn adjourn at 2:15 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council