

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 16, 1998

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 16, 1998, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

M 258 98 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Approve Agenda approve the Agenda, as presented.

Motion Adopted: 4 Yea, 1 Absent.

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

M 259 98 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Approve Minutes approve the minutes of the three previous meetings, dated June 2, June 9, and June 10, 1998.

Motion Adopted: 4 Yea, 1 Absent.

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

Cole Mr. Cole joined the meeting at this time.

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

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW JERSEY.
RE: Notice of Commission Meeting and Public Hearing.

STATE OF DELAWARE, DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DIVISION OF AIR & WASTE MANAGEMENT, DOVER, DELAWARE.

RE: Notice of Public Meeting for discussion of pending changes to DuPont's hazardous waste storage and incineration permit.

PAT PEARSON, TREASURER, BAND BOOSTERS, INDIAN RIVER HIGH SCHOOL, FRANKFORD, DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

Corre-
spondence
(con't)

GENEVIEVE METLER, PARENT VOLUNTEER, LANDSHARK OLYMPIC PROGRAM,
HARBESON, DELAWARE.
RE: Note of thanks for Councilmanic Grant.

DENNIS N. FORNEY, PUBLISHER, CAPE GAZETTE, AND JOHN R. SCHROEDER,
REPRESENTATIVE OF THE STATE OF DELAWARE, LEWES, DELAWARE.
RE: Letter and newspaper article regarding the Charles Mills
Boulevard Award being awarded to the Town of Dewey Beach.

Adminis-
trator's
Report

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

1. FEMA Grant - February Storms

I am pleased to inform the Council that we have received a check from the State of Delaware for the FEMA grant for the February 1998 storms. The check was in the amount of \$100,553, including \$72,803, for County Sewer and Water District damage reimbursements. It also included \$13,540 for reimbursement for the County Emergency Operations Center expenses that were incurred. We have previously distributed \$14,210 to the fire companies and school districts for their expenses.

2. Transfer of Development Rights Committee

The Transfer of Development Rights Committee appointed by the County Council met on Thursday, June 4, 1998. The Committee feels that this is a program that could eventually work in the future. It was the consensus of the Committee that this is a concept to look at, but there are still a lot of unanswered questions, such as time frame, market for speculators, and need for some type of program. The Committee will be meeting in August to review programs that are currently being developed elsewhere to determine if they would fit into Sussex County's overall Land Use Plan.

3. Comprehensive Land Use Plan Citizens Advisory Committee Meeting

Shane Abbott, Assistant Planning and Zoning Director, met with the Comprehensive Land Use Plan Citizens Advisory Committee. The Committee reviewed proposed ordinances that are currently pending. There was no consensus of the Committee on recommending that the Council take any action on the proposed ordinances. During the next month Committee members are going to review existing regulations, as well as pending ordinances, and will be meeting again in July.

4. Federal Emergency Management Agency (FEMA) Grant

I have been notified by FEMA that Lewes has been targeted to receive a Federal Emergency Management grant entitled "Project Impact". One town in each state throughout the United

Adminis-
trator's
Report
(con't)

States has been selected for this project. The project is a national effort to work towards disaster resistant communities by building a partnership to better prepare the communities for natural disasters.

5. Fourth Annual Hurricane Workshop

The Fourth Annual Hurricane Workshop was held on June 3, 1998, at the National Guard Training Center in Bethany Beach. This year's workshop theme focused on lessons learned from the nor'easters that impacted the coastal area of Sussex County in January and February of 1998. Eighty (80) people participated in this year's workshop, which included local, County, and State agencies, fire companies, and the National Weather Service. Several issues were raised and discussed, with re-entry into damaged areas after a storm being the most prevailing. It was decided among the group that this issue deserved its own workshop to try to come up with a coordinated system which would allow re-entry to storm affected areas.

6. Wicomico County Visit

Council members and the County Administrative Director for Wicomico County will be visiting the Sussex County Council on Tuesday, June 23, 1998. To my knowledge this should be a very historic meeting, with it being the first time that both Sussex County Council and Wicomico County Council members have met. The visit will include a tour of our facility and lunch with both councils.

7. Salt Pond East, L.L.C./Bethany Courts, L.L.C.

Conditional Use No. 1244, Salt Pond East, L.L.C./Bethany Courts, L.L.C., was left open until the close of business on Monday, June 15, 1998. Planning and Zoning Director Lawrence Lank has received three comments on the pending application. The general public may review the comments and comment on the new submittals until the close of business on Monday, June 29, 1998. After that date, the County Council may place the item back on the agenda for a vote.

8. Donald Ralph

It is with sorrow that I inform Council of the passing of Donald Ralph of Laurel, Delaware. Mr. Ralph passed away Sunday evening, June 14, 1998. Mr. Ralph had served as a Planning and Zoning Commissioner from July 2, 1979, to December 11, 1997.

West
Rehoboth
Phase
III

Mr. Izzo, County Engineer, discussed a modification to an existing Agreement between Sussex County and George, Miles & Buhr for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Phase III, for engineering services. Mr. Izzo

West
Rehoboth
(con't)

noted that the existing Agreement which was executed in February, 1997 was for the Design phase; Mr. Izzo requested that the Agreement be modified to extend the Agreement to perform Construction Administration and Construction Coordination Phases.

M 260 98
Execute
Contract
Amend-
ment
with
GM&B/
West
Rehoboth
Phase
III

A Motion was made by Mr. Cole, seconded by Mr. Jones, based on the recommendation of the County Engineering Department, and contingent upon the receipt of approvals from Rural Development and/or the Delaware Department of Natural Resources and Environmental Control, that the Sussex County Council authorizes its President to execute Amendment No. 1 to its Design Contract with George, Miles and Buhr, LLP, to provide Construction Administration and Coordination Services for Phase III of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, which increases the contract amount from \$1,552,100.00 to \$2,598,611.00.

Motion Adopted: 5 Yea.

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

Spinnaker
Village
and
Ocean
Breezes

Mr. Green, Director of Utility Construction, discussed the construction of wastewater facilities in Spinnaker Village located in the Bethany Beach Sanitary Sewer District and in Ocean Breezes located in the North Bethany Expansion of the Bethany Beach Sanitary Sewer District.

Ordinance
38
Projects/
Inspection
Costs
and
Over-

A discussion ensued regarding a recently adopted procedure relating to reimbursement to the County for overtime costs incurred by County employees inspecting Ordinance 38 projects. Current policy states that contractors will pay to the County an amount equal to 15 percent of the Construction Contract price to cover County inspections; in addition, overtime fees are assessed when County employees are asked to work overtime for the purpose of inspecting Ordinance 38 projects. time Following the discussion, it was the consensus of Council that the 15 percent sufficiently covers the County's inspection costs and therefore, overtime charges are not to be assessed unless weekend or holiday work is involved.

M 261 98
Execute
Agree-
ment/
Spinnaker
Village

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the President of the Sussex County Council execute an Agreement between Sussex County Council and Salt Pond Associates for Construction Administration and Construction Inspection Services for wastewater facilities to be constructed in Spinnaker Village, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

M 261 98 Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;
(con't) Mr. Collins, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

M 262 98 A Motion was made by Mr. Jones, seconded by Mr. Collins, that
Execute the President of the Sussex County Council execute an Agree-
Agree- ment between Sussex County Council and Bethany Kline, L.L.C.,
ment/ for Construction Administration and Construction Inspection
Ocean Services for wastewater facilities to be constructed in Ocean
Breezes Breezes, located in the North Bethany Expansion of the Bethany
Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Public Hearing/ A Public Hearing was held on the Sussex County Fiscal 1999
Fiscal Budget for General Fund, Bond Issues, Community Development
1999 and Housing Grant Programs, Specialized Transportation Program,
Budget Sewer and Water Districts, and Capital Improvement Programs as
proposed on May 19, 1998. A Proposed Ordinance entitled "AN
ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL
YEAR 1999" was presented for consideration. Public comments
were heard regarding the County's long term debt obligation
and funding for the South Coastal Library.

The following correspondence was read into the record:

DONALD J. MCCANN, PLS, CHAIRMAN, SUSSEX COUNTY FAIR, GEORGE-
TOWN, DELAWARE.

RE: Request for funds for Sussex County Fair.

KIM TEPHABOCK, SENIOR PASTOR, DAGSBORO CHURCH OF GOD, DAGSBORO,
DELAWARE.

RE: Request for funds for "Celebration of Our Nation".

GERARD L. ESPOSITO, DIRECTOR, DIVISION OF WATER RESOURCES,
DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL,
DIVISION OF WATER RESOURCES, DOVER, DELAWARE.

RE: Sussex County's proposal for a Sanitary Sewer Assistance
Program.

M 263 98 A Motion was made by Mr. Collins, seconded by Mr. Cole, to
Amend amend the salary increase proposed for County employees from
County \$750.00 to 4 percent (to be divided equally - approximately
Employee \$1,088).
Salary
Increase

Motion Denied: 4 Nay, 1 Yea.

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

M 264 98 A Motion was made by Mr. Collins, seconded by Mr. Cole, to
Amend amend the increase proposed for County pensioners from 1.4
Proposed percent to 2 percent.
Increase
for Motion Denied: 4 Nay, 1 Yea.
County
Pen- Vote by Roll Call: Mr. Cole, Nay; Mr. Rogers, Nay;
sioners Mr. Collins, Yea; Mr. Jones, Nay;
Mr. Dukes, Nay

M 265 98 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to
Amend amend the Proposed Fiscal 1999 Budget to include a \$1,850
Proposed Grant from the County Council Grant Fund for the 1998 Sussex
Fiscal County Fair.
1999
Budget Motion Adopted: 5 Yea.
Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;
Mr. Collins, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

M 266 98 A Motion was made by Mr. Rogers, seconded by Mr. Collins, to
Amend amend the Proposed Fiscal 1999 Budget to include a \$1,000
Proposed Grant from the County Council Grant Fund for "Celebration of
Fiscal Our Nation", a 4th of July Family Day Celebration sponsored
1999 by the Dagsboro Church of God.
Budget Motion Adopted: 5 Yea.
Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;
Mr. Collins, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

The Public Hearing was closed.

Public A Public Hearing was held on the Assessment Rolls for Dewey
Hearing/ Beach Water District, Dewey Beach Sanitary Sewer District,
Assess- Bethany Beach Sanitary Sewer District, South Bethany Sanitary
ment Sewer District, Fenwick Island Sanitary Sewer District, Blades
Rolls Sanitary Sewer District, North Bethany Expansion of the Bethany
Beach Sanitary Sewer District, Henlopen Acres Sanitary Sewer
District, Long Neck Sanitary Sewer District, Dagsboro-Frankford
Sanitary Sewer District, and the West Rehoboth Expansion of the
Dewey Beach Sanitary Sewer District. A letter was read into
the record from John Sergovic, counsel for R.R. Bayside, Inc.,
R.R. Seaside, Inc., R.R. Rehoboth, Inc. and Rehoboth Mall
Limited Partnership. The Public Hearing was closed.

Public A Public Hearing was held on the Proposed Ordinance entitled
Hearing/ "AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL
Proposed ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND TREAT-
Ordinance MENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND

Public
Hearing
(con't)

SANITARY SEWER DISTRICTS". The letter from John Sergovic which was read during the previous Public Hearing was incorporated into the record of this Public Hearing.

M 267 98
Adopt
Assess-
ment
Rolls

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council hereby adopts the Assessment Rolls for all Sussex County Sanitary Sewer and Water Districts, as presented on June 16, 1998, for the period July 1, 1998 to June 30, 1999.

Motion Adopted: 5 Yea.

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

M 268 98
Adopt
Ordinance
No. 1240
Estab-
lishing
Rates/
Sewer
and
Water
Districts

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1240 entitled "AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS".

Motion Adopted: 5 Yea.

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

M 269 98
Adopt
Ordinance
No. 1241
Fiscal
Year
1999
Budget

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1241 entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 1999", as amended to include Grants to the Sussex County Fair and Celebration of Our Nation.

Motion Adopted: 5 Yea.

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

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 FOR AN ANTIQUE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.09 ACRES, MORE OR LESS (Conditional Use No. 1252) filed on behalf of Pamela J. Asa. The Proposed Ordinance will be advertised for Public Hearing.

M 270 98
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 from Mr. Cole's Councilmanic Account to the Lord Baltimore Elementary School for improvements to the school playground.

M 270 98 Motion Adopted: 5 Yea.
(con't)

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

M 271 98 A Motion was made by Mr. Collins, seconded by Mr. Jones, to
Council- give \$100.00, \$50.00 each from Mr. Dukes' and Mr. Collins'
manic Councilmanic Accounts, to the Laurel High School baseball
Grant team for the purchase of a sign.

Motion Adopted: 5 Yea.

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

Waste- Mr. Harold Truxon, President of the Ellendale Improvement
water Association, informed Council that a march around Legis-
Funding lative Hall is scheduled for June 28 to encourage the intro-
duction and adoption of legislation restoring wastewater
funding. In addition, a letter will be forwarded to President
Clinton advising him of the need for wastewater funding.

M 272 98 A Motion was made by Mr. Collins, seconded by Mr. Jones, to
Recess 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 A Public Hearing was held on the Proposed Ordinance entitled
Hearing "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
(C/U AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCKING COMPANY TO
No. 1246) BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.2 ACRES, MORE
OR LESS" (Conditional Use No. 1246) filed on behalf of Paul
Crone. Public comments were heard and the Public Hearing was
closed.

M 273 98 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to
Adopt Adopt Ordinance No. 1242 entitled "AN ORDINANCE TO GRANT A
Ordinance CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL
No. 1242 DISTRICT FOR A TRUCKING COMPANY TO BE LOCATED ON A CERTAIN
(C/U PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX
No. 1246) COUNTY, CONTAINING 2.2 ACRES, MORE OR LESS" (Conditional
Use No. 1246) filed on behalf of Paul Crone, with the fol-
lowing conditions:

1. Only one commercial truck and trailer may be stored on site at a time.
2. Stockade fencing shall be maintained to screen truck and trailer.

M 273 98
(con't)

3. Truck and trailer shall be parked to the north of the property.
4. Only a total of two unlicensed vehicles and trailers may be stored on site.
5. All other unlicensed vehicles and trailers shall be removed within ninety days of approval.
6. Truck and trailer may not run continuously on site.

Motion Adopted: 3 Yea, 2 Nay.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Nay;
Mr. Collins, Yea; Mr. Jones, Nay;
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 applicant established by substantial evidence that the proposed use has been in existence in one form or another for more than twenty years.
2. The applicant's sole employment is as a trucker, hauling produce, poultry and wood products from the Delmarva Peninsula, thereby promoting agricultural industries in the area.
3. With the stipulations in place, the neighborhood is better protected than it was without the Conditional Use permit.

M 274 98
Adjourn

A Motion was made by Mr. Collins, seconded by Mr. Jones, to adjourn at 2:30 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council