

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 20, 1995

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 20, 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 264 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to Approve Minutes approve the minutes of the previous meeting dated June 13, 1995. Motion Adopted by Voice Vote.

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

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL,
UNDERGROUND STORAGE TANK BRANCH, NEW CASTLE, DELAWARE.
RE: Summer 1995 newsletter.

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW JERSEY.
RE: Notice of Commission Meeting and Public Hearing on applications for approval of several projects, none of which are located in Sussex County.

FISHER DEVELOPMENT/RBO ASSOCIATES, L.P., LANCASTER, PENNSYLVANIA.
RE: Letter commending Mr. Milligan of the County's Building Code Department.

THE HONORABLE JOHN F. TARBURTON, SECRETARY, DEPARTMENT OF AGRICULTURE, DOVER, DELAWARE.
RE: Letter to Mr. Dukes appointing Mr. Austin Short as the representative from the Delaware Department of Agriculture to serve as a non-voting member on the Sussex County Planning and Zoning Commission.

GEORGE T. BEAUCHAMP, EXECUTIVE DIRECTOR, GREATER SEAFORD CHAMBER OF COMMERCE, SEAFORD, DELAWARE.
RE: Letter to Mr. Dukes and Mr. Stevenson in appreciation of their Councilmanic Grants for Project 13.

Milton Mr. Stickels, County Administrator, discussed the committee Community that is to be established to investigate the possibility of a Center/Library joint community center/library building in Milton. Mr. Stickels Library recommended that the following people represent the County on Study the Committee: Carol Fitzgerald, County Librarian; Bill Committee Siegmund, County Engineering Department; and Bill Townsend, County Auditor.

M 265 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Appoint appoint Carol Fitzgerald, Bill Siegmund and Bill Townsend to
Repre- represent the County on the Milton Community Center/Library
senta- Study Committee.
tives
to Motion Adopted: 5 Yea.
Committee

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

Waste- Mr. Brian Carbaugh appeared before Council to discuss potential
water changes to the Delaware Code which would give Sussex County the
Service option to contract for sewage service in commercial and com-
Con- munity situations. Mr. Carbaugh advised that in his business,
tracting he is asked to evaluate options for wastewater management for
projects that are not within Sussex County's established Sani-
tary Sewer Districts. One feasible option for these projects
would be connection to the County's existing wastewater
infrastructure; however, Title 9 of the Delaware Code limits
the powers of the County to only contract for sewage service
with industrial facilities and government agencies. Mr.
Carbaugh advised that, with Council's endorsement, he is
willing to take this issue to the State Legislature. It
was the consensus of Council that the County staff draft
a proposal for further discussion and review.

Review Conditional Use No. 1109 entitled "AN ORDINANCE TO GRANT A
C/U CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL
No. 1109 DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (7 UNITS) TO
BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.68
ACRES, MORE OR LESS" filed on behalf of Ronald T. Moore was
discussed. A Public Hearing was held on this application
on April 25, 1995, at which time the Public Hearing was
closed and action was deferred. The record was left open
through May 5, 1995, for the submission of legal argument
on the following legal issues:

1. Inclusion of land between Silver Lake Drive and Silver Lake for purposes of density calculation.
2. Parcel located within two subdivisions.

Mr. Jones, Assistant County Attorney, reported his findings on these issues. No action was taken.

Appoint- Mr. Dukes reviewed various expired and vacant committee
ments appointments.

M 266 95 A Motion was made by Mr. Collins, seconded by Mr. Benson,
Committee to reappoint Robert C. Wheatley to the Planning and Zoning
Appoint- Commission for a term of three years.
ment

M 266 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

M 267 95 A Motion was made by Mr. Benson, seconded by Mr. Stevenson,
Committee to reappoint Dale Callaway to the Board of Adjustment for a
Appoint- term of three years.
ment

Motion Adopted: 5 Yea.

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

M 268 95 A Motion was made by Mr. Collins, seconded by Mr. Benson,
Committee to reappoint Margaret T. Hudson to the Board of Adjustment
Appoint- for a term of three years.
ment

Motion Adopted: 5 Yea.

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

M 269 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Committee reappoint John Mills to the Board of Adjustment for a term
Appoint- of three years.
ment

Motion Adopted: 5 Yea.

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

M 270 95 A Motion was made by Mr. Cole, seconded by Mr. Benson, to
Committee appoint Bruce Mears to the Building Code and Housing Code
Appoint- Appeal Board for a term of four years.
ment

Motion Adopted: 4 Yea, 1 Abstention.

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

M 271 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Committee reappoint Kenneth S. Clark to the Advisory Retirement Board
Appoint- for a term of four years.
ment

Motion Adopted: 5 Yea.

M 271 95 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

M 272 95 A Motion was made by Mr. Collins, seconded by Mr. Benson,
Committee to reappoint John D. Holt to the Advisory Retirement Board
Appoint- for a term of four years.
ment

Motion Adopted: 5 Yea.

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

M 273 95 A Motion was made by Mr. Stevenson, seconded by Mr. Collins,
Committee to reappoint Carilee G. Short to the Advisory Retirement Board
Appoint- for a term of four years.
ment

Motion Adopted: 5 Yea.

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

M 274 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Committee reappoint Dale Dukes to the Sussex County Arbitration Com-
Appoint- mission for a term of four years.
ment

Motion Adopted: 4 Yea, 1 Abstention.

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

M 275 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Committee reappoint David B. Baker to the Sussex County Arbitration Com-
Appoint- mission for a term of four years.
ment

Motion Adopted: 5 Yea.

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

M 276 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Committee reappoint Norman C. Rickard to the Sussex County Arbitration
Appoint- Commission for a term of four years.
ment

Motion Adopted: 5 Yea.

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

M 277 95 A Motion was made by Mr. Benson, seconded by Mr. Cole, to Committee reappoint Angela C. Lank to the Advisory Retirement Board Appoint- for a term of four years.
ment

Motion Adopted: 5 Yea.

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

M 278 95 A Motion was made by Mr. Benson, seconded by Mr. Cole, to Committee reappoint Estella Marie Joseph to the Advisory Retirement Appoint- Board for a term of four years.
ment

Motion Adopted: 5 Yea.

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

Bid Results for Auditing Services

Mr. Baker, Finance Director, reviewed the following bid results for auditing services for the fiscal years ending June 30, 1995, 1996, and 1997:

	1995	1996	1997
1. Jefferson, Urian, Doane & Sterner, P.A.			
Audit - Lump Sum Bid	\$23,740	\$24,930	\$26,250
Additional Services	\$45/hr.	\$45/hr.	\$45/hr.
2. Pigg, Krahl, Stern & Co., P.A.			
Audit - Lump Sum Bid	\$33,000	\$32,000	\$33,000
Additional Services	\$39/hr.	\$42/hr.	\$45/hr.
3. Faw, Casson & Co., LLP			
Audit - Lump Sum Bid	\$27,500	\$28,000	\$28,500
Additional Services	\$60/hr.	\$60/hr.	\$60/hr.
4. Santora, Starr & Baffone			
Audit - Lump Sum Bid	\$39,000	\$41,000	\$43,000
Additional Services	\$75/hr.	\$80/hr.	\$85/hr.

The bids will be reviewed for a recommendation.

Adminis-
trator's
Report

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

1. Lawson, et al., v. Sussex County Council, et al.

The County has received the decision of Chancellor Allen of the Court of Chancery with respect to the rendering plant. The Court refused to set aside the decision of the County Council to rezone the Allen property to HI-1 (Heavy Industrial).

Chancellor Allen found that the record contained substantial evidence to support the rezoning. The Court found that sufficient evidence existed to permit the County Council "to conclude that the environmental, health, traffic, and other concerns had been adequately dealt with and that there was a public, as well as a private, interest in permitting this sort of economic activity on this tract."

Chancellor Allen addressed the issue as to whether the rezoning followed the Comprehensive Land Use Plan. The Court found that the Land Use Plan "is a planning document used to inform future discretionary judgments, not a master zoning map." While recognizing that a rezoning must be done in accordance with the Land Use Plan, the Court determined that there must be some flexibility. The Court found that there was language in the Land Use Plan to support the rezoning.

The Court found no fault with Council President Dukes' discussions with an official of the State of Virginia concerning air pollution, holding that such a contact with an uninterested person was not objectionable in the legislative zoning process.

Finally, the Court held that the number of acres rezoned by the County Council, being 35, was not inappropriate. The Court also refused to consider argument that Mr. Conaway was engaging in the unauthorized practice of law.

Change
Order
No. 1 -
Adminis-
trative
Office

Mr. Archut, Director of Planning and Permits, discussed Change Order No. 1 to the County Administrative Office Building Contract. The Change Order, in an amount not to exceed \$34,228.14, is for the structural backfilling of the area excavated for the removal of a leaking underground storage tank.

M 279 95
Approve
Change
Order
No. 1

A Motion was made by Mr. Stevenson, seconded by Mr. Benson, based on the recommendation of the Architect, R. Calvin Clendaniel Associates, and the County Engineering Department, that the Sussex County Council approve Change Order No. 1 to the County Administrative Office Building Contract for the structural backfilling of the area excavated for

June 20, 1995 - Page 7

M 279 95 removal of a leaking underground storage tank at a cost
(con't) not to exceed \$34,228.14, with no change to the completion
date, and with the approval being subject to the approval of
the RECD.

Motion Adopted: 4 Yea, 1 Abstention.

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

Proposed Mr. Dukes introduced the Proposed Ordinance entitled "AN
Ordinance ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTOMOTIVE SALES
(CLASSIC AND ANTIQUE VEHICLES) TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED,
SUSSEX COUNTY, CONTAINING 19.46 ACRES, MORE OR LESS"
(Conditional Use No. 1125) filed on behalf of Cheryl E.
Murphy, et. al. The Proposed Ordinance will be advertised
for Public Hearing.

M 280 95 A Motion was made by Mr. Collins, seconded by Mr. Benson,
Adjourn to adjourn at 11:30 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council