

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-JUNE 26, 1990

Call to
Order

The regular meeting of the Sussex County Council was held on Tuesday, June 26, 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
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.

Announce-
ment

President Stevenson announced that Mr. Benson's absence was due to an appointment with his doctor.

M 305 90
Approval
of Minutes

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

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

KENDRA SCHLABACH, SECRETARY, FRIENDS OF THE GREENWOOD LIBRARY
RE: Thanking the Council for their help in purchasing a video collection for Greenwood's Library and the continued support of the Council.

US ARMY CORPS OF ENGINEERS, PHILADELPHIA
RE: Public Notice to solicit comments concerning issuance of a permit for work at the Cape Shores residential development site, prior to construction.

Amendments
for Sign
Ordinance

The recommendations for amendments to the Sign Ordinance, as prepared by the Planning and Zoning Commission, were reviewed by Mr. Stickels, County Administrator. The Commission's six (6) proposed amendments and two (2) requests for instruction from the Council were read as follows:

1. The Ordinance is proposed to be amended to clarify that a typical sign has two (2) facings and that the square footage references each side or facing;
2. The Ordinance is proposed to reduce the setback of three hundred (300) feet from a dwelling, church, school, or public lands to one hundred (100) feet for on-premise signs;

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Amend-
ments
for Sign
Ordinance
(Con't.)

3. The Ordinance is proposed to change the square footage for on-premise signs from a maximum of two hundred (200) square feet total to one hundred fifty (150) square feet per side or facing -- three hundred (300) square feet total;
4. The Ordinance is proposed to permit a ground sign per each street frontage, rather than limit a site to one sign;
5. The Ordinance is proposed to reduce the distance from sign or bus shelters to intersection from thirty-five (35) feet to twenty-five (25) feet;
6. The Ordinance proposes to restrict political signs with time limits.

There was a reference by one of the Councilmen to change the setback for signs from the present twenty-five (25) feet to forty (40) feet. There did not seem to be a consensus of the Council on this issue, so action was deferred by the Commission for instruction from the Council.

There have been several inquiries by individuals requesting to place signage on the rear of existing signs to cover the framework. Again, action was deferred by the Commission for instruction from the Council.

Discussion
Sign
Ordinance
Amendments

Council discussed each of the proposed amendments and requests and made the following recommendations:

1. They were in general agreement with each of the first five (5) proposed amendments.
2. The following regulations were suggested for the proposed amendment concerning political signs:
 - a. The size for political signs should not exceed twelve (12) square feet;
 - b. The time limit for public posting would be ninety (90) days before the election date;
 - c. All signs must be removed thirty (30) days after the election date;
 - d. Larger signs would require a permit and would be governed by those regulations.

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Discussion
Sign
Ordinance
Amendments
(Con't.)

3. The consensus of the Council was that the twenty-five (25) foot setback for signs should remain as written in the Ordinance.
4. Council also agreed that the limit of six hundred (600) square feet of signage for each existing sign should remain in the Ordinance.
5. An additional question was raised concerning language being included in the amendments that would require all signs to be brought into compliance with the regulations as set forth in the Sign Ordinance within a specified time frame; i.e., five (5) to ten (10) years. This will be researched by the Acting Attorney and included in the Ordinance.

A Proposed Ordinance will be prepared for introduction amending the Sign Ordinance as discussed today.

Proposal
For
Buffer
Zone
Ordinance

Mr. Stickels, County Administrator, reviewed the following recommendations proposed by the Planning and Zoning Commission for the Buffer Zone Ordinance:

1. Ordinance be developed to create a landscaped buffer zone as part of the Subdivision Ordinance;
2. A minimum thirty (30) foot wide vegetated buffer zone be required between residential lots and lands actively being farmed;
3. An additional twenty (20) foot setback be required for dwellings. This will create a fifty (50) foot buffer between agricultural lands and dwellings;
4. Vegetated buffers shall be developed in cooperation with the State Forester from the Department of Agriculture;
5. A bond in the amount of one hundred twenty-five percent (125%) of the cost for planting the vegetated buffer will be required to ensure the completion of the buffer; and
6. Appropriate definitions will be developed as part of the Proposed Ordinance.

Mr. Jones, Acting County Attorney, advised Council that these recommendations should be introduced as a new Proposed Ordinance and advertised for Public Hearing.

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Buffer
Zone
Ordinance
(Con't.)

The Proposed Ordinance concerning buffer zones between residential subdivisions and agricultural operations, introduced January 9, 1990, didn't address many of the items included in this proposal. Action was deferred on the original proposal at the Public Hearing. A Proposed Ordinance, including the recommendations as proposed by the Planning and Zoning Commission, will be prepared for introduction.

Adminis-
trator's
Report

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

1. Colonel Gravier has appointed Corporal Scott D. Hitchens to serve on the Sussex County Paramedic Advisory committee. This committee is complete except for the five (5) appointments from the County Council. Confirmation of all appointments to this committee is anticipated at the Council meeting on Tuesday, August 10, 1990.
2. A letter from Mr. Walton A. Johnson, Jr., President of the Delaware Volunteer Firemen's Association, regarding Paramedic training. Mr. Johnson has sent a copy of the letter to all State Senators and Representatives.

Mr. Jones, Acting County Attorney, read Mr. Johnson's letter in its entirety. Since the letter addresses many issues needing legislative consideration, especially the State's FY-91 Budget, Mr. Stickels, County Administrator, will express the Council's support of the letter to members of the General Assembly.

West
Rehoboth
Expansion
of the
Dewey
Beach
Sanitary
Sewer
District

Mr. Wood, County Engineer, briefly reviewed the selection process for securing consulting services for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

1. On February 6, 1990 the Council approved advertising for consulting services.
2. February 28, 1990 was the deadline for submission of proposals.
3. On March 27, 1990 based upon the recommendation of the Consultant Selection Committee, George, Miles and Buhr was approved by Council as the consultants for the project. At that time, the Engineering Department was authorized to enter into negotiations with the consultant prior to the award of the design and construction management contract.

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West
Rehoboth
(Con't.)

4. Negotiations have been finished and the Engineering Department feels that George, Miles and Buhr has presented a reasonable contract for consideration.

M 306 90
Contract
Facilities
& Design
West
Rehoboth
Expansion
DBSSD

A Motion was made by Mr. Mariner, seconded by Mr. Dukes, based upon the recommendation of the Engineering Department, that the Sussex County Council President be authorized to enter into a contract with George, Miles and Buhr for the WASTEWATER FACILITIES PLAN and FACILITIES DESIGN for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District for the contract amount of \$4,757,200. Motion Adopted: 4 Yea; 1 Absent.

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

Public
Hearing -
Sick &
Vacation
Leave for
County
Employees

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE AMENDING ORDINANCE NO. 11, AS AMENDED, ARTICLE 16, RELATING TO SICK LEAVE AND VACATION LEAVE FOR COUNTY EMPLOYEES".

Mr. Jones, Acting County Attorney, reviewed the following information concerning the Proposed Ordinance:

1. The Ordinance was introduced May 29, 1990.
2. On June 12, 1990 the Code of Sussex County was adopted by Ordinance No. 687. The Code of Sussex County represents a new and complete codification of all County Ordinances. The codification, authorized by County Council, changed the numbering of all County Ordinances.
3. Upon Adoption of the Code of Sussex County, Ordinance No. 11 became Chapter 29 of the Code of Sussex County.
4. In order that we appropriately amend the Code of Sussex County, the title of the Proposed Ordinance will be "AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY, RELATING TO SICK LEAVE AND VACATION LEAVE FOR COUNTY EMPLOYEES". **The body of the Proposed Ordinance is not changed at all except to make the format fit the new Code of Sussex County.**

A letter was read from the Employees Advisory Committee unanimously endorsing the proposal and expressing appreciation for the opportunity to have input in the matter.

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Hearing
(Con't.)

The Public Hearing was closed.

M 307 90
Adopt
Ordinance
No. 695 -
Vacation
& Sick
Leave
for
Employees

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, that the Proposed Ordinance entitled "AN ORDINANCE TO AMEND ORDINANCE NO. 11, AS AMENDED, ARTICLE 16, RELATING TO SICK LEAVE AND VACATION LEAVE FOR COUNTY EMPLOYEES" be amended to comply with the Code of Sussex County and to Adopt Ordinance No. 695 entitled "AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY, RELATING TO SICK LEAVE AND VACATION LEAVE FOR COUNTY EMPLOYEES". Motion Adopted: 4 Yea; 1 Absent.

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

C/Z #1064
Site
Plan
Discus-
sion

A discussion was held concerning a site plan for Change of Zone No. 1064, submitted by Carl M. Freeman Associates, Inc. The site plan had been requested by County Council at the Public Hearing held on May 29, 1990. The public record had been left open in order to receive the site plan from the applicant. The purpose of the site plan was to show how the parcel in question would appear as a MR Subdivision, as opposed to a RPC rezoning.

Mr. Lank, Director of Planning and Zoning, presented three (3) plot plans for Change of Zone No. 1064, as submitted by Carl M. Freeman Associates, Inc., for Council's review. Two (2) RPC plans were reviewed; one with an entrance across the wetlands and the other with an upland entrance - both showing fifty-nine (59) lots. One (1) MR plan showed a grid system with the same upland entrance showing fifty-two (52) lots. There is a culdesac situation in the MR plan and the RPC plan shows stub streets, therefore, amendments would be required for each plan. The MR plan with lessor lots shows more encroachment on wetlands and does not require recreational amenities. The RPC plan meets all the requirements of the Zoning Ordinance, shows less disturbance of wetlands, more open space, and provides advantages for the Subdivision.

County Council had also permitted the public record to remain open for the period June 5, 1990 through June 15, 1990, in order to allow the public to comment on the MR site plan.

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C/Z #1064
Discus-
sion
(Con't.)

All persons who appeared at the May 29, 1990 public hearing were contacted by Mr. Lank and were advised of their right to comment. Although several of these individuals reviewed the site plan, only Bernard Kostelnik commented. Mr. Kostelnik submitted three (3) letters for inclusion in the record. Mr. Kostelnik stated that he believed he was being denied due process of law by not being able to speak at another public hearing concerning the MR site plan. Mr. Kostelnik objected in general to the principle of an RPC at the site in question. Mr. Kostelnik questioned the validity of the MR site plan, arguing that the number of lots placed thereon is inaccurate.

Acting County Attorney Peter B. Jones stated that the submission of the MR site plan, as well as the request for public comments on that site plan, was done as a result of requests by Mr. Kostelnik and others in opposition to the change of zone. Mr. Jones stated that all persons involved had been given an opportunity to present comment. Mr. Jones stated that there was no right to a second public hearing. Mr. Jones stated that, in his opinion, no due process violation had occurred.

C/Z #1063

Change of Zone No. 1063, filed on behalf of John H. Parker was discussed. Public Hearing was held on May 29, 1990 and action was deferred.

Mr. Jones, Acting County Attorney, reported at the Public Hearing before Council that Legal Counsel for the applicant had down-scaled the application to include only Lots 74 and 75, and not five (5) lots previously applied for.

M 308 90
Adopt
Ordinance
No. 696
C/Z #1063

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to Adopt Ordinance No. 696 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, AS AMENDED TO INCLUDE LOTS 74 AND 75 ONLY" (C/Z #1063), filed on behalf of John H. Parker. Motion Adopted: 3 Yea; 1 Nay; 1 Absent.

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

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Findings
of Facts
C/Z #1063

The findings of fact of the Planning and Zoning Commission were incorporated into the record and into the findings of the County Council. The Council found that the Change of Zone promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County. The Council found that although the Comprehensive Development Plan refers to the area as low-density residential, the Plan is not site-specific. The Council found that the site is appropriate for commercial zoning, due to its adjacent position to a wide commercial strip on either side of Route 113. The Council found that the applicant had amended his application to apply only to Lots 74 and 75.

Proposed
Ordinance
C/U #947

Mr. Cole introduced Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE SALE OF CRAFTS AND ANTIQUES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20,121 SQUARE FEET, MORE OR LESS" (C/U #947) filed on behalf of George M. Parrott and Marian Parrott. The Proposed Ordinance will be advertised for Public Hearing.

Proposed
Ordinance
C/U #948

Mr. Stevenson introduced Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ANTIQUE AND STAINED GLASS SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.17 ACRES, MORE OR LESS" (C/U #948) filed on behalf of Paul T. McDermond and Arlone Bertone. The Proposed Ordinance will be advertised for Public Hearing.

M 309 90
Board of
Adjustment
Appoint-
ment

A Motion was made by Mr. Cole, seconded by Mr. Mariner, that Ronald G. McCabe be reappointed to the Sussex County Board of Adjustment for a term of three (3) years (July 1, 1990 - June 30, 1993). Motion Adopted: 4 Yea; 1 Absent.

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

M 310 90
Library
Advisory
Board
Appoint-
ment

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, that George Tuck be reappointed to the Sussex County Library Advisory Board for a term of three (3) years (July 1, 1990 - June 30, 1993). Motion Adopted: 4 Yea; 1 Absent.

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M 310 90
Library
Board
(Con't.)

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

M 311 90
Council-
manic
Grant

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to give \$300.00, from Mr. Mariner's Councilmanic Account, to Indian River High School Band Boosters to help in purchasing new uniforms. Motion Adopted: 4 Yea; 1 Absent.

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

Zoning
Question

Ms. Shirley Wilson asked if zoning decisions made at public hearings stay with the land or with the landowner. Mr. Jones, Acting County Attorney, advised rezoning is an action involving the land and not the owner.

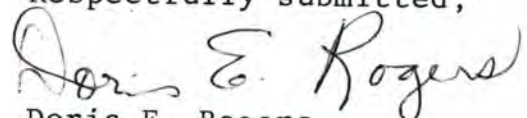
Zoning
Question

Councilman Cole questioned if there is a time limit for the completion of plans given during testimony at Public Hearings for land use. He also questioned if it is possible to tie the time factor with the decision. Mr. Jones, Acting County Attorney, advised that all zoning decisions should be made with consideration being given to all potential uses that could be made on the property by the change of zone and not on the plans as submitted. Delaware Law does not allow placing a limitation on rezoning matters.

M 312 90
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, to adjourn at twelve noon. Motion Adopted by Voice Vote.

Respectfully submitted,



Doris E. Rogers
Clerk of the County Council