

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-JULY 10, 1990

Call to
Order

The regular meeting of the Sussex County Council was held on Tuesday, July 10, 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 321 90
Amend
Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Benson, that the minutes of July 3, 1990, page 7, under "M 318 90 - Library Advisory Board Appointment" be amended by striking [two (2)] and [1992] and inserting in lieu thereof three (3) and 1993. Motion Adopted by Voice Vote.

M 322 90
Approval
of
Minutes

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

Corre-
spondence

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

DELDOT, KERMIT H. JUSTICE, SECRETARY, DOVER
RE: Conceptual plans for the improvement of Route 10 from US Route 13 to US Route 113 will be available for public inspection on Tuesday, July 17, 1990, between the hours of 4:00 p.m. and 8:00 p.m. at the DelDOT Administration Building, Dover.

US ARMY CORPS OF ENGINEERS, PHILADELPHIA
RE: A Public Notice to solicit comments and recommendations from the public concerning issuance of a permit for work located at Mariners Cove, lots B16D and B16E, to provide private recreational boating access to the two (2) waterfront properties.

US ARMY CORPS OF ENGINEERS, PHILADELPHIA
RE: Second in a series of newsletters updating the ongoing study of the Chesapeake & Delaware Canal-Baltimore Harbor Connecting Channels.

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Corre-
spondence
(Con't.)

TIMOTHY BAMFORTH, PRESIDENT, SEASHORE STRIDERS RUNNING CLUB
OF REHOBOTH

RE: A request for financial assistance to help with the
expenses for two qualified members of their club to compete
in the Junior Olympic Eastern Region Track and Field
Championships to be held at the University of Buffalo.

M 323 90
Council-
manic
Grant

A Motion was made by Mr. Benson, seconded by Mr. Stevenson,
to give \$360.00, from Mr. Benson's Councilmanic Account,
to the Seashore Striders Running Club of Rehoboth Beach
to provide financial assistance for their competition in
the Junior Olympic Eastern Region Track and Field
Championships. Motion Adopted: 5 Yea.

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

M 324 90
Paramedic
Committee
Appointed

A Motion was made by Mr. Mariner, seconded by Mr. Cole,
to appoint the following representatives to serve on the
Paramedic Committee for a term of three (3) years
(July 1, 1990 - June 30, 1993):

PARAMEDIC COMMITTEE REPRESENTATIVES

Delaware State Police Trooper Paramedic Program:

Corporal Scott D. Hitchens

Sussex County Volunteer Firemen's Association:

William E. Gordy - Delmar Fire Company
Walton A. Johnson, Jr. - Frankford Fire Company
David Salevan - Ellendale Fire Company

Sussex County Hospital Administrators (or Designee):

Beebe Medical Center - James Monihan
Milford Memorial Hospital - Edward S. Morris
Nanticoke Memorial Hospital - Edward Hancock

Sussex County Practicing Emergency Physicians:

Beebe Medical Center - Dr. Michael S. Sommer
Milford Memorial Hospital - Dr. Michael R. Gannon
Nanticoke Memorial Hospital - Dr. Nicholas Bordulia

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M 324 90
Paramedic
Committee
(Con't.)

Sussex County Councilmanic Districts:

District 1 - Gregory Johnson, Laurel
District 2 - Henry Peters, Greenwood
District 3 - Donald Clifton, Milford
District 4 - Shirley Price, Clarksville
District 5 - Nick Varrato, Jr., Millsboro

Motion Adopted: 5 Yea.

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

Recyclers
of the
Month

Mr. Stickels, County Administrator, reported that Daniel L. Short, Bridgeville, and Ethel Smith, Milton, were the "Recyclers of the Month". The number of recyclers at the Transfer Stations was down nineteen percent (19%) this month.

Bethany
Beach
Library

Mr. Stickels, County Administrator, reviewed the progress of the Bethany Beach Library. The Friends of the South Coastal Library, Bethany Beach, have been conducting a campaign to raise funds to build the new South Coastal Library. A federal grant proposal is being prepared for funds available through Title II of the Library Services and Construction Act. They expect to receive \$250,000 in 1990, and again in 1991 from the State Bond Bill. The County approved a grant in the amount of \$50,000 for the Library in 1988.

Adminis-
trator's
Report

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

1. **Delaware Estuary Program** - the next meeting of the Local Government Committee is scheduled for July 25, 1990 at 9:30 a.m. The meeting will be held in the New Castle County Conservation District Building, Glasgow, Delaware.
2. **Memorandum - Office of Budget Director** - outlining State projects that have applied for federal grants.
3. **1990 Bond Sale** - Sussex County received an A-1 rating for the \$3,740,000 General Obligation Bonds to be sold on July 12, 1990.
4. **Dagsboro-Frankford Sanitary Sewer District - Farmers Home Grant Application** - Mr. Wood, County Engineer, will be submitting an application to the Farmers Home Administration. The application includes a total grant and loan assistance request in the amount of \$3,822,800.

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Airport
Aerial
Easement
Proposal

Mr. Wood, County Engineer, discussed the Sussex County Airport Aerial Easement Proposal and reviewed the following background information:

1. June 6, 1989 - County Council authorized negotiations between Urban Engineers, Inc. and Sussex County to provide consulting services regarding a Master Plan Study for Sussex County Airport;
2. FAA pays 90%, State pays 5%, and County pays 5%;
3. FFA funding requires the adoption of an Airport Ordinance and obtaining Clear Zone Easements; and
4. November 28, 1989 - Council adopted Ordinance No. 640 establishing an Airport Hazard Zoning Ordinance;

M 325 90
Consultant
Agreement
Obtaining
Aerial
Clear
Zone
Easements

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, based upon the recommendation of the Engineering Department, authorizing the President of the County Council to enter into a Consultant Agreement with Urban Engineers, Inc., Philadelphia, Pennsylvania, for the purpose of obtaining Aerial Clear Zone Easements over properties located in the approach zones of Runway 4-22 for an amount not to exceed \$78,265.00. Motion Adopted: 5 Yea.

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

Sign
Ordinance
Discus-
sion

Mr. Jones, Acting County Attorney, discussed language being included in the proposed amendments for the sign ordinance that would require all signs to be brought into compliance with the regulations as set forth within a specified time frame. This information was requested by the Council at the June 26, 1990 meeting. Delaware law states that nonconforming signs can remain standing. To provide a sunset provision, it will be necessary to have legislation enacted by the General Assembly. Councilman Cole suggested this be followed up as a Tri-County project. However, if the other Counties are not interested in such a provision, Sussex County should seek passage from the General Assembly.

M 326 90
Council-
manic
Grant

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to give \$900.00, from Mr. Stevenson's Councilmanic Account, to the Greenwood Volunteer Fire Company to help with the purchase of a small cutter to be used in rescue operations. Motion Adopted: 5 Yea.

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M 326 90
(Con't.)

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

M 327 90
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, to give \$1,000.00, from Mr. Cole's Councilmanic Account, to the Town Of Ocean View to purchase a playset for their park. Motion Adopted: 5 Yea.

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

M 328 90
Council-
manic
Grant

A Motion was made by Mr. Benson, seconded by Mr. Cole, to give \$500.00, from Mr. Benson's Councilmanic Account, to the Milford Parks & Recreation Department to help with travel expenses for the D.A.C. Sportfishing Softball Team in the "A" National Modified Softball Tournament. Motion Adopted: 5 Yea.

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

MacNamara
Appeal

Mr. Stickels, County Administrator, reported that the MacNamara v. Sussex County Council (U.S. Federal District Court C.A. 89-625), filed by the opponents to the Delaware Electric Cooperative zoning application and dismissed in Federal District Court, has been appealed to the U.S. Circuit Court of Appeals in Philadelphia.

Public
Hearing
Extending
Boundaries
for Beth.
Beach
Sanitary
Sewer
District

A Public Hearing was held to consider extending the boundaries of the Bethany Beach Sanitary Sewer District to include The Salt Pond Residential Planned Community.

Mr. Jones, Acting County Attorney, advised Council members that 9 Del. Code §6502(A) requires posting of notices and Public Hearing only for the extension of boundaries for an established district.

As a result of a written request by The Salt Pond Residential Planned Community dated May 2, 1990, County Council authorized the Engineering Department to post notices for the extension of the Bethany Beach Sanitary Sewer District to include The Salt Pond Residential Planned Community on June 12, 1990. Notices were posted on June 21, 1990.

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Public
Hearing
Extending
Boundaries
for Beth.
Neck
Sanitary
Sewer
District
(Con't.)

Mr. Friedel, Engineering Consultant for Salt Pond, explained the concept of the proposed plan for the extension of the district. Land will be given to the County for the pump station site and force mains and will serve the future Cedar Neck Sanitary Sewer District. Salt Pond will be paying all construction costs.

Mr. Witsil, Attorney, representing several landowners of adjoining properties, was present. They asked that their properties be made a part of this extension and indicated willingness to participate in the funding of their portion of the extension if they were included.

It is not possible to project a dollar estimate for costs to include adjoining landowners without first doing extensive land studies.

Mr. Fuqua, Legal Counsel for Salt Pond Developers, confirmed that the developer was creating a core for the Cedar Neck Sanitary Sewer District.

The Public Hearing was closed and action was deferred.

Bid
Proposals
TR1-90

The following bid proposals for Sussex County Transfer Station No. 1, near Bridgeville were opened:

<u>EASTERN WASTE INDUSTRIES, INC.</u> , SALISBURY	\$41,633.00
<u>WHITE LINE, INC.</u> , GEORGETOWN	\$38,400.00
<u>ALL-RITE RUBBISH REMOVAL, INC.</u> , FELTON	\$39,000.00

The bids will be reviewed and a recommendation brought back at a later date.

Public
Hearing -
Amend
Chapter
29

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY, TO REMOVE CERTAIN EMPLOYEES FROM THE CATEGORY OF UNCLASSIFIED SERVICE".

Mr. Russell McCabe, Sussex County Recorder of Deeds, urged the Council to adopt the Proposed Ordinance.

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Public
Hearing
(Con't.)

The Public Hearing was closed and action was deferred.

C/Z #1064

Change of Zone No. 1064, filed on behalf of Carl M. Freeman Associates, Inc., was discussed. Public Hearing was held on May 29, 1990 and action was deferred.

M 329 90
Adopt
Ordinance
No. 697
C/Z #1064

A Motion was made by Mr. Cole, seconded by Mr. Mariner, to Adopt Ordinance No. 697 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., with the following stipulations:

1. Project shall have no encroachment by Lot Lines on 404 Wetlands;
2. Entrance shall be through the uplands section;
3. Amenities shall include a community pool as shown on submitted plan with appropriate parking;
4. Developer will minimize impact on natural vegetation and retain secondary dune contours within development area; and
5. Developer shall install a stormwater management plan for site as developed.

Motion Adopted: 5 Yea.

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

Findings
of Facts
C/Z #1064

The Council reviewed the findings of facts and recommendations of the Planning and Zoning Commission and incorporated the same into the record and into the findings of facts of the Council. The Council reviewed the evidence submitted by the applicant at the Council's public hearing. That evidence, as presented through the applicant's attorney, James Fuqua, included the following:

That other RPCs exist in the area of the proposed site;

That the parcel was twice rezoned for high density on previous occasions, but said rezonings were overturned in Court;

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Findings
of Facts
(Con't.)
C/Z #1064

That an RPC allows for design ingenuity;

That the RPC will result in fifty-nine (59) single-family lots and one (1) recreational lot;

That no commercial or multi-family structures will be placed in the RPC;

That the density will be 2.77 units per acre;

That this project is totally separate and distinct from other existing Sea Colony projects;

That the entrance location as initially submitted to the Planning and Zoning Commission and to the County Council was placed in order to keep traffic away from Bayberry Dunes;

That if the property was developed as a MR Medium Density Residential subdivision, there would be approximately ten (10) less lots.

The Council reviewed the testimony of Charles Miller, an environmental consultant, who stated a RPC is an environmentally more sound project than a MR Medium Density Residential zoned subdivision.

The Council reviewed testimony presented by Bernard Kostelnik. He testified that no need for the rezoning had been shown. He also testified that the applicant had never submitted a site plan showing what development would be possible under a MR Medium Density Residential zoned property. The Council reviewed the testimony of others in opposition, who stated that a MR Medium Density Residential subdivision would result in lots which were more open. Testimony was presented that narrow lots are not as marketable as wider lots and that narrow lots create a fire hazard. Testimony was received that the entrance to the project should be over uplands, not a bridge, as proposed by the applicant.

The Council reviewed the rebuttal testimony submitted by the applicant's attorney, who stated that even with wider lots, there would potentially be the same distance between buildings as with narrower lots, so the same fire hazard would exist. The Council also reviewed the statement of the applicant's attorney that the Coastal Sussex Land Use Plan recommends RPCs near the ocean.

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Findings
of Facts
(Con't.)
C/Z #1064

The County Council reviewed a MR Medium Density Residential subdivision site plan which was submitted by the applicant, showing fifty-two (52) lots, but showing that building would occur into Federal 404 Wetlands. The Council reviewed the fact that the RPC site plan shows fifty-nine (59) lots, but no building into the Federal 404 Wetlands.

The Council reviewed comments in opposition to the MR site plan by Mr. Kostelnik.

The Council reviewed the fact that density on both the MR Medium Density Residential subdivision and the RPC would be similar to what exists currently on Route 1. The Council reviewed Planning and Zoning Director Lawrence Lank's opinion that the RPC is a better development concept than the MR subdivision, and that the RPC would result in more open space.

The Council found that the proposed land use promotes the health, safety, morale, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and approved the change of zone with stipulations as set out above.

Recess

President Stevenson declared a recess at 12:12 p.m. until 1:30 p.m.

Reconvene

President Stevenson called the Council back into session at 1:30 p.m.

Public
Hearing
C/U #939

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 FOR A PRIVATE AIRSTRIP FOR A BANNER TOWING SERVICE 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" (C/U #939) filed on behalf of Atlantic Coastal Aerial Advertising. The Public Hearing was closed and action was deferred.

Public
Hearing
C/U #940

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 FOR MANUFACTURING OF SCREENS FOR INDUSTRIAL USES AND EXPANSION OF EXISTING BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 24,230.5 SQUARE FEET, MORE OR LESS" (C/U #940) filed on behalf of Atlantic Screen, Inc.

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M 330 90
Adopt
Ordinance
No. 698
C/U #940

A Motion was made by Mr. Benson, seconded by Mr. Dukes, to Adopt Ordinance No. 698 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MANUFACTURING OF SCREENS FOR INDUSTRIAL USES AND EXPANSION OF EXISTING BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 24,230.5 SQUARE FEET, MORE OR LESS" (C/U #940) filed on behalf of Atlantic Screen, Inc., with the following stipulation:

1. The addition cannot exceed the perimeter boundaries of the present building.

Motion Adopted: 5 Yea.

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

Findings
of Facts
C/U #940

The findings of facts and the recommendations of the Planning and Zoning Commission were incorporated into the record and into the findings of facts of the Council. The Council found that the proposed conditional use was of a public or semi-public character and was essential and desirable for the general convenience and welfare. The Council found that the purpose of the conditional use was so that the applicant could expand the existing nonconforming use. The Council found that all expansion will take place on the second floor, and the perimeter boundaries of the existing structure would not be expanded. The Council found that there will be adequate parking and loading facilities on the site.

Public
Hearing
C/U #941

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 FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25,000 SQUARE FEET, MORE OR LESS" (C/U #941) filed on behalf of Edward Hickman, Jr.

M 331 90
Adopt
Ordinance
No. 699
C/U #941

A Motion was made by Mr. Mariner, seconded by Mr. Stevenson, to Adopt Ordinance No. 699 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 25,000 SQUARE FEET, MORE OR LESS" (C/U #941) filed on behalf of Edward Hickman, Jr., with the following stipulations:

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M 331 90
(Con't.)
Ordinance
No. 699

1. No more than three (3) customer vehicles shall be stored outside at any one time;
2. There shall be no Sunday hours of operation;
3. One (1) unlit sign may be constructed on site and shall not exceed thirty-two (32) square feet per facing;
4. All necessary County and State permits shall be obtained.

Motion Adopted: 4 Yea; 1 Abstention.

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

Findings
of Facts
C/U #941

The findings of facts and the recommendations of the Planning and Zoning Commission were incorporated into the record and into the findings of facts of the Council. The Council found that the proposed use was generally of a public or semi-public character and was essential and desirable for the general convenience and welfare. The Council found that testimony received at the County Council Public Hearing showed overwhelming public support for the conditional use. The Council found that there was a need for the proposed use, an engine repair shop, in the area. The Council found that several business and/or commercial uses exist in close proximity to the proposed site.

Public
Hearing
C/Z #1075

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 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.67 ACRES, MORE OR LESS" (C/Z #1075) filed on behalf of CONN-E Construction Company. The Public Hearing was closed and action was deferred.

Public
Hearing
C/A #1077

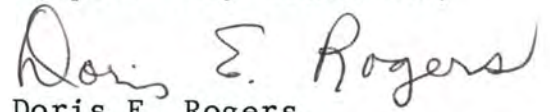
A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS" (C/Z #1077) filed on behalf of Malone Schooler. The Public Hearing was closed and action was deferred.

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Adjourn-
ment

President Stevenson declared the meeting adjourned at
4:10 p.m.

Respectfully submitted,



Doris E. Rogers
Clerk of the County Council