

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 11, 1995

Call to Order The regular meeting of the Sussex County Council was held Tuesday, July 11, 1995, at 9:00 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 301 95 A Motion was made by Mr. Stevenson, seconded by Mr. Collins, Amend Agenda to amend the Agenda to include the following: Administrative Building - Change Order.

Motion Adopted: 4 Yea, 1 Absent.

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

Mr. Dukes joined the meeting at this time.

M 302 95 A Motion was made by Mr. Collins, seconded by Mr. Cole, to Approve Minutes approve the minutes of the previous meeting dated June 27, 1995. Motion Adopted by Voice Vote.

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

STUDENTS OF REHOBOTH ELEMENTARY SCHOOL, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of \$200.00 from Mr. Cole's Councilmanic Account to be used for their new computer lab.

U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA, PENNSYLVANIA.

RE: Notice to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the following projects:

(1) Applicant: John E. Burris
Waterway: Lewes and Rehoboth Canal

(2) Applicant: Paul Lane Ives, Jr.
Waterway: Lewes and Rehoboth Canal

BRUCE E. LITTLETON, CHIEF TRAFFIC ENGINEER, STATE OF DELAWARE, DEPARTMENT OF TRANSPORTATION, DOVER, DELAWARE.

RE: Letter to Mr. Stickels regarding a signal study at Delaware 26 @ Sussex 349 (Old Mill Road).

Corre- ROBERT H. RODENBAUGH, SR., REHOBOTH BEACH, DELAWARE.
spondence RE: Letter to Councilman Cole regarding low-cost apartments
(con't) being built on Route 1.

BETTY COLLINS, ACTING DIRECTOR OF EMERGENCY PREPAREDNESS,
GEORGETOWN, DELAWARE.
RE: Letter to the U.S. Coast Guard commending them for
their quick response to Fenwick Island when oil was reported
on the beach on June 29, 1995.

State's Mr. Stickels, County Administrator, introduced the Honorable
Long Anne P. Canby, Secretary of the Delaware Department of Trans-
Range portation; David S. Hugg III, Coordinator for State Planning
Transpor- for the State of Delaware; and Thomas J. Shafer of Whitman,
tation Regardt and Associates. The discussion centered around the
Planning State's long range transportation planning and how these
plans will work in conjunction with the County's Comprehen-
sive Land Use Plan. Secretary Canby reviewed the guidelines
in "Shaping Delaware's Future", a report developed by the
Cabinet Committee on State Planning Issues. This report
addresses issues including farmland preservation, open space
retention, re-use of aging industrial sites, and developing
Delaware's transportation, water and wastewater systems.

Proposed Mr. Stickels, County Administrator, reviewed a Proposed
MOU "Memorandum of Understanding Relating to the Comprehensive,
with Continuing, and Cooperative Transportation Planning and Pro-
DelDOT gramming Process" between the Delaware Department of Trans-
portation and the Sussex County Council. The Memorandum of
Understanding provides for the formation of a Transportation
Planning Advisory Committee (TPAC) that will assist in
coordination of planning issues associated with the pre-
paration of the Statewide Transportation Plan and the County
Comprehensive Plan and will serve as a general voice for
public opinion on transportation planning. The Proposed
Memo.randum of Understanding will be placed on the Agenda
for the August 15, 1995, Council meeting.

Grant Mr. G. Timothy Kavel, Vice President of Delaware Technical
& Community College, introduced Dr. Orlando George, Jr.,
newly elected President of Delaware Technical & Community
College. Mr. Dukes presented to Mr. Kavel a check in the
amount of \$1,000 representing a grant from Council for
expenses associated with the Old Fashioned Fourth of July
Celebration.

Proposed Mr. Maull, representing Delaware Technical & Community
Leasehold College, discussed a Proposed Leasehold Interest Assign-
Interest ment between the Sussex County Council, North American
Assign- Housing Corporation, and Delaware Technical & Community
ment College, for the assignment of 2.28 acres of land located
at the Sussex County Industrial Park. The initial term
of the lease would be twenty years with two five-year

M 306 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

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

1. Manufactured Home Placement Tax

Notices have been sent to manufactured home dealers in Sussex County reminding them that effective August 14, 1995, there will be a one percent placement tax on all manufactured homes in unincorporated areas of the County. The value of the manufactured home shall be determined by a valid sale agreement or current listed value as published in a nationally recognized appraisal guide, whichever is greater.

Any questions regarding the assessment of this one percent tax should be directed to the Assessment Division at 855-7826. Assessment Division staff will be happy to provide any additional information that might be needed in order to make the implementation of this new process as smooth as possible.

2. County Seat Materials

County Seat Materials has received approval from the Secretary of the Department of Natural Resources and Environmental Control (DNREC) to construct and operate an asphalt plant at the Sussex County Industrial Park. DNREC ruled all air quality issues of concern presented at the permit hearing have been addressed and appropriate conditions have been imposed. The permit requires the company to use specialized equipment to keep dust in check. The State's permit does include a provision that states if the zoning is found to be invalid, the permit would be void.

3. Sussex County Volunteer Firemen's Association Monthly Meeting

The Blades Fire Company will host the Sussex County Volunteer Firemen's Association monthly meeting at their fire hall on Tuesday evening, July 25, 1995, at 7:30 p.m.

4. Council Meeting

A reminder that the Council meeting for July 18, 1995, will be held at the South Coastal Library starting at

Adminis-
trator's
Report
(con't)

10:00 a.m. The South Coastal Library is located on Kent Avenue, Bethany Beach, Delaware. This meeting will be the fourth in the series of rotating the Council meetings on a quarterly basis between each Councilmanic District. In addition to the normal items of business, sufficient time will be allotted to allow the public to discuss items that may be pertinent to the area.

5. Fiscal 1996 Property Tax Bills

Property tax bills for Fiscal 1996 were mailed on July 5, 1995. As noted on the back side of each bill, the due date for the current bills is September 30, 1995. After September 30, 1995, a penalty of 1 1/2 percent per month will be charged on the unpaid balance. As noted on the enclosure with each tax bill, approximately 80 percent of the property tax bill is for school districts.

6. West Rehoboth Sewer Project Loan Settlement

On June 27, 1995, the County received checks for a total of \$6,600,000 from the United States Treasury for the Rural Economic and Community Development loan for the West Rehoboth Sewer Project. The County has received a total of \$20,224,000 from this particular loan program that totals \$39,223,000. Again, this is a 40-year general obligation loan with an interest rate of 4 1/2 percent. This \$6,600,000 is a reimbursement to the Sussex County Council for costs expended for this project. This long-term low-interest loan was instrumental in reducing the capitalization fees charged by 75 percent.

Attorney Mr. Bayard, County Attorney, left the meeting. Mr. Jones, Assistant County Attorney, was the attorney present for the remainder of the meeting.

Mr. Dukes did not participate in the following discussion due to a conflict of interest.

Old
Business
(C/U
No. 1109)

Conditional Use No. 1109 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL 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 action was deferred.

M 307 95
Adopt
Proposed
Ordinance

A Motion was made by Mr. Cole to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL 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 HUN-

M 307 95 DRED, SUSSEX COUNTY, CONTAINING 1.68 ACRES, MORE OR LESS"
(con't) (Conditional Use No. 1109) filed on behalf of Ronald T.
Moore, with the following stipulations:

1. The maximum number of units shall not exceed four units.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
3. The building shall be limited to three (3) stories and 35' in height.
4. Landscaping shall be provided along property lines.

The Motion failed for lack of a second.

M 308 95 A Motion was made by Mr. Stevenson, seconded by Mr. Benson,
Adopt to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO
Proposed GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESI-
Ordinance DENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (7
(C/U UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
No. 1109) BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CON-
TAINING 1.68 ACRES, MORE OR LESS" (Conditional Use No. 1109)
filed on behalf of Ronald T. Moore, with the following
stipulations:

1. The maximum number of units shall not exceed seven units.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
3. The building shall be limited to three stories and 35' in height.
4. Landscaping shall be provided along property lines.

Motion Denied: 2 Yea; 2 Nay.

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

(The Motion was denied due to the lack of three affirmative votes.)

Findings of Fact The findings of fact and recommendations of the Planning and Zoning Commission were incorporated into the record. The County Council considered whether the conditional use was in accordance with the comprehensive development plan and whether it promoted the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and whether the conditional use was for the general convenience and welfare of the inhabitants of Sussex County.

Findings
of Fact
(con't)

On a Motion to Adopt Conditional Use No. 1109, including four (4) stipulations as recommended by the Planning and Zoning Commission, Mr. Cole voted no. Mr. Cole stated that while a multi-family use may be compatible with the area, if one would consider garage apartments in the area as multi-family uses, the general appearance of the area is single-family. As a result, Mr. Cole determined that a multi-family development with a density of seven (7) units was not compatible with the area. He stated that in his opinion a multi-family structure of four (4) units would be compatible with the density of the surrounding area. He further stated that the nature of the area would be negatively affected by a large building with seven (7) units.

Mr. Stevenson voted in favor of Conditional Use No. 1109, finding that seven (7) units would be compatible with the area. Mr. Stevenson adopted the findings of fact proposed by the applicant, as follows:

1. The findings of fact and recommendation made by the Planning and Zoning Commission, which unanimously recommend approval on the basis that multi-family uses, garage apartments and bed and breakfast inns exist in the area, establishing a character in the area for multi-family usage, that Silver Lake Drive is a main artery connecting Dewey Beach and Rehoboth Beach, and that the use may appreciate property values in the area.
2. The health, safety and welfare of the present and future inhabitants of Sussex County shall not be detrimentally affected by the proposed use, and will, in fact, be benefitted by the proposed use, in that the proposed seven (7) unit multi-family structure will, among other things, lessen congestion in the streets and provide appropriate concentration of population in the area served by existing utilities;
3. The proposed seven (7) unit, multi-family structure is in character with the surrounding neighborhood; the neighborhood currently contains existing multi-family structures approved under the Comprehensive Zoning Ordinance, a bed and breakfast inn consistent with the original restrictive covenants, and numerous multi-family used lots consisting of main structures with apartments, and apartment complexes.
4. The weight of the evidence, notwithstanding conflicts in the evidence, shows that the neighborhood property values will not be adversely affected, and that the proposed residential units, because of their price,

Findings
of Fact
(con't)

- will not be susceptible to being rental properties, but rather owner used property. The offering prices for the proposed units in the upper ranges of the existing market will tend to increase the neighborhood property values.
5. The design of the proposed seven (7) unit, three (3) story, multi-family structure is in keeping with the size of existing structures in the community. The proposed building's lot coverage, based upon a visual comparison of the proposed structure to the aerial photographs introduced into evidence, as well as the plots prepared by the applicant showing the relative sizes of existing structures and percentage of lot coverage, is not out of character with existing lot coverages.
 6. The proposed seven (7) unit, three (3) story, multi-family dwelling will constitute a lessening of the lot coverage and an increase of useable open space compared to developing the same property as separate single-family residential lots.
 7. The parcel is more appropriately developed by multi-family use, since the nature of the 70,000+ square feet of developable space is not readily adaptable to an innovative placement of housing structures by a traditional subdivision plan.
 8. The proposal is in compliance with the Sussex County Coastal Land Use Plan, in that the Land Use Plan seeks innovation of housing types, and a conditional use in an MR district affords compliance with, and consistency with the Plan's housing goals.
 9. It is recognized that Silver Lake Drive is a heavily traveled route in the summer months. Without the conditional use, a minimum of two lots would have sole access on Silver Lake Drive. The combination of all the property into a single development project, with a single building, can limit the access to one drive on Silver Lake Drive, and provide alternative access on James A. Street. Such access tends to lessen congestion in the streets, and promotes a better traffic pattern than would development of the property as separate single-family lots, with each lot having its own drive onto the connecting and abutting streets.
 10. As reported by the Planning and Zoning Director, and as supported by the Applicant's post-hearing memorandum, the property has in excess of 70,000 square feet

Findings
of Fact
(con't)

which is calculatable for density requirements under the Sussex County Zoning Ordinance, therefore, there is no increase in density as a result of the conditional use permit being granted, since the land area required under the MR district, i.e. 10,000 square feet of land per dwelling unit, allows seven (7) units. The subject property contains in excess of 70,000 square feet to support the seven (7) units applied for.

Mr. Benson voted in favor of Conditional Use No. 1109, adopting the same findings of facts proposed by the applicant.

Mr. Collins voted no, stating that his inspection of the lot indicated that it looks large enough and would provide enough room for four (4) single-family dwelling units. He stated that single-family dwelling units would be more compatible with the neighborhood than a multi-family structure. Mr. Collins stated that there was only one similar multi-family structure in the area, and the presence of that multi-family structure did not substantiate a need for the applicant's proposal. Mr. Collins adopted the findings of facts proposed by the opposition as follows:

1. The health, safety, and welfare of the present and future inhabitants of Sussex County shall be detrimentally affected by the proposed use. The proposed seven (7) unit multi-family structure is not in character with the surrounding single family dwelling neighborhood. Although one HR - High Density Residential four (4) unit structure exists on Silver Lake Drive, the predominant nature of the surrounding community is single family structures.
2. Convincing evidence was presented that neighboring property values would be detrimentally affected by the proposed use.
3. The design of the proposed seven (7) unit, three (3) story multi-family dwelling structure, approximately 23,000 square feet in size, is not in conformity with other residential structures in the area.
4. The parcel can be more appropriately developed as a subdivision of single family detached homes.
5. The Sussex County Coastal Sussex Land Use Plan does not indicate that increased density or multi-family dwellings are an appropriate use for parcels in this area.

Findings of Fact (con't) 6. Silver Lake Drive is a heavily travelled route in the summer months. Increased residential traffic created by the seven (7) unit structure at this site shall cause a serious traffic safety risk.

The County Council failed to adopt Conditional Use No. 1109.

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 AUTO REPAIR SHOP AND TOWING SERVICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 28,835 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1126) filed on behalf of Merrill R. Baker, Jr. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Collins introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.94 ACRES, MORE OR LESS" (Conditional Use No. 1127) filed on behalf of Delaware Electrical Cooperative. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 29,476 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1128) filed on behalf of Mary O. Rizk. The Proposed Ordinance will be advertised for Public Hearing.

Change Order County Administrative Office Building Mr. Archut, Director of Planning and Permits, and Mr. Clendaniel of R. Calvin Clendaniel Associates discussed Change Order No. 2 to the County Administrative Office Building Contract. The Change Order, on a time and material basis, is for the replacement of unsuitable fill to meet compacting requirements for a proper bearing surface for the building.

M 309 95 Approve Change Order No. 2 A Motion was made by Mr. Collins, seconded by Mr. Cole, 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. 2 to the County Administrative Office Building Contract for the replacement of unsuitable fill on a time

M 309 95 and material basis in accordance with unit prices out-
(con't) lined in the Contract, where applicable. (The effect on
the Contract completion date, if any, will be negotiated
at a later date.)

Motion Adopted: 5 Yea.

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

M 310 95 A Motion was made by Mr. Benson, seconded by Mr. Stevenson,
Council- to give \$600.00 from Mr. Benson's Councilmanic Account to
manic the Memorial Fire Company of Slaughter Beach for expenses
Grant associated with the fireworks display on Independence Day.

Motion Adopted: 5 Yea.

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

M 311 95 A Motion was made by Mr. Collins, seconded by Mr. Benson,
Council- to give \$300.00, \$150.00 from Mr. Collins' Councilmanic
manic Account and \$150.00 from Mr. Dukes' Councilmanic Account
Grant to Laurel Youth Sports, Inc., for operating expenses.

Motion Adopted: 5 Yea.

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

M 312 95 A Motion was made by Mr. Collins, seconded by Mr. Benson,
Council- to give \$500.00 from Mr. Collins' Councilmanic Account
manic to the Town of Millsboro for additional sidewalk at the W.B.
Grant Atkins Park.

Motion Adopted: 5 Yea.

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

M 313 95 A Motion was made by Mr. Cole, seconded by Mr. Collins, to
Council- give \$250.00 from Mr. Cole's Councilmanic Account to the
manic Indian River High School for improvements to the weight
Grant room.

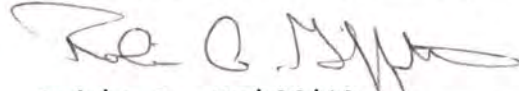
Motion Adopted: 5 Yea.

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M 313 95 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

M 314 95 A Motion was made by Mr. Cole, seconded by Mr. Collins, to
Adjourn adjourn at 11:12 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council