

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 20, 1993

Executive Session An Executive Session of the Sussex County Council was held on Tuesday, July 20, 1993, at 9:10 a.m., in the Council Chambers, Courthouse, Georgetown, Delaware, for the purpose of discussing pending litigation and land acquisition. The Executive Session concluded at 9:54 a.m.

Call to Order The regular meeting of the Sussex County Council was held Tuesday, July 20, 1993, 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 292 93 A Motion was made by Mr. Collins, seconded by Mr. Benson, to approve the minutes of the previous meeting dated July 13, 1993. Motion Adopted by Voice Vote.

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

MILFORD MEMORIAL HOSPITAL, MILFORD.

RE: Invitation to attend an Open House for the new Regional Rehabilitation Center on Thursday, July 22, 1993.

MILFORD PUBLIC LIBRARY, MILFORD.

RE: Appreciation for Council's donation to the new library building.

AMERICAN RED CROSS, DELAWARE CHAPTER, WILMINGTON.

RE: Summer, 1991, edition of newsletter entitled "Crosswinds".

Sea Country Estates and Bay View Estates Sewer Request Mr. James McCaffrey, President of Sea Country Estates Homeowners Association, and Mr. H. Clark Carbaugh, P.E., were present to discuss wastewater management at Sea Country Estates and Bay View Estates. This matter was discussed at the July 13, 1993, Council meeting, at which time action was deferred so that the following information could be researched: (1) the legality of Council entering into an agreement with a private firm for wastewater treatment, (2) whether Council would be compelled to service everyone within the new boundaries if the sewer district boundaries are extended, and (3) whether this would set a precedent and thus require the County to provide the same service for other subdivisions.

Sea  
Country  
Estates  
and Bay  
View  
Estates  
Sewer  
Request  
(con't)

Mr. Bayard, County Attorney, read in its entirety, a letter from Mr. Archut, Director of Planning and Permits, reporting on the County Engineer's practice in regards to going outside of an organized sewer district to collect and treat sewage. In his letter, Mr. Archut advised that the proposal does not conform with the South Coastal Area Planning Study. The Engineering Department recommends that individual community systems continue to be pursued.

Mr. Schrader, Assistant County Attorney, commented on the County's statute in regards to sewer districts and connections thereto. Mr. Schrader advised that no provision exists under current County statutes that allows the County to go outside of an organized sanitary sewer district and contract with private entities for the collection and transmission of sewage into a County system. Mr. Bayard, County Attorney, advised that there is no legal method by which the County can connect Sea Country Estates and Bay View Estates to the County system without expanding the existing South Coastal District. Mr. Bayard further advised that if the District was expanded to these areas, the County would be obliged to provide service for anyone who applies for service within the intervening areas.

Sussex  
County  
Emergency  
Operating  
Plan

Mr. Stickels, County Administrator, presented for Council's approval the Sussex County Emergency Operating Plan to be submitted to the Federal Emergency Management Agency. The Sussex County Emergency Preparedness Office completed the rewriting and updating of this Plan and submitted it to the Emergency Planning and Operations Division of the State of Delaware for review. The development of this Plan was undertaken to provide Sussex County with a comprehensive emergency operations plan which will be used to address hazards which may foreseeably affect the County and its citizens.

M 293 93  
Execute  
Sussex  
County  
Emergency  
Operating  
Plan

A Motion was made by Mr. Stevenson, seconded by Mr. Cole, that the Sussex County Council authorizes the Sussex County Council President and the Sussex County Administrator to execute the Sussex County Emergency Operating Plan to be submitted to the Federal Emergency Management Agency, as recommended by the Sussex County Department of Emergency Preparedness and the Sussex County Administrator.

Motion Adopted: 5 Yea.

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

CDBG Awards

Mr. Stickels, County Administrator, reviewed a letter from the Delaware State Housing Authority listing the Sussex County Community Development Block Grant awards. Program activities were funded as follows:

<u>Community</u>	<u>Activity</u>	<u>Amount</u>
Belltown (Lewes)	Rehabilitation	\$ 60,000
Rural Frankford	Rehabilitation	60,000
Ellendale	Rehabilitation	54,000
Blades	Rehabilitation	21,600
Frankford	Rehabilitation/ Hookups	64,000
Dagsboro	Rehabilitation/ Hookups	64,000
Scattered	Rehabilitation	131,000
Milton	Rehabilitation	40,000
Bridgeville	Water Line Rehabilitation	122,607 47,500
Greenwood	Rehabilitation	45,000
Milford	Rehabilitation	76,000
Georgetown	Rehabilitation	40,000
Administration		<u>73,800</u>
<b>Total Sussex County Council</b>		<b>\$ 899,507</b>
Delmar	Rehabilitation Administration	\$ 50,000 4,700
Seaford	Replace Water Main	<u>91,750</u>
<b>Total Sussex County</b>		<b><u>\$1,045,957</u></b>

Committee Appoint-  
ments

Mr. Stickels, County Administrator, advised Council that Madeline Dunn's appointment to the Library Advisory Board expired on June 30, 1993. In addition, Mr. Stickels advised

Committee Appointments (con't) that the minutes of the meeting of the Sussex County Council, dated June 29, 1993, need to be amended to reflect that Mrs. Doris C. Mills was appointed to the Library Advisory Board for three years instead of two years.

M 294 93 Library Advisory Board Amend Minutes 6/29/93 A Motion was made by Mr. Cole, seconded by Mr. Collins, that Mrs. Madeline Dunn of Laurel, Delaware, be appointed to the Sussex County Library Advisory Board for a three year term commencing July 1, 1993; and be it further moved that the minutes of June 29, 1993, be amended to read that Mrs. Doris C. Mills of Greenwood, Delaware, be appointed to the Sussex County Library Advisory Board for a three year term, also commencing July 1, 1993.

Motion Adopted: 5 Yea.

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

House Concurrent Resolution No. 38 Mr. Stickels, County Administrator, informed Council of House Concurrent Resolution No. 38 entitled "CREATING A STUDY COMMITTEE TO MAKE A COMPREHENSIVE ANALYSIS OF THE LANDLORD TENANT LAW AND PROPOSE NECESSARY REVISIONS AS IT RELATES TO MANUFACTURED HOUSING". This Resolution creates a Study Committee to review the Landlord-Tenant law as it relates to manufactured housing. Seventeen members are to be appointed by the designated state or private entities (one member is to be appointed by the Sussex County Council). Two members are to be appointed by the Senate President Pro Tempore and the Speaker of the House.

M 295 93 Appoint Representative to Study Committee A Motion was made by Mr. Cole, seconded by Mr. Collins, that the Sussex County Council affirms the appointment of Robert L. Stickels, County Administrator, to represent the Sussex County Council on a study committee to make a comprehensive analysis of the landlord-tenant law and propose necessary revisions as it relates to manufactured housing, as required by House Concurrent Resolution No. 38 of the 137th General Assembly.

Motion Adopted: 5 Yea.

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

Change Order Mr. Stickels, County Administrator, discussed Change Order No. 10 in the amount of \$1,031.42, for the Courthouse Expansion and Renovation Project.

M 296 93  
Execute  
Change  
Order  
Court-  
house  
Project

A Motion was made by Mr. Cole, seconded by Mr. Collins, that the President of the Sussex County Council be authorized to execute Change Order No. 10, in the amount of \$1,031.42, for the Courthouse Expansion and Renovation Project.

Motion Adopted: 5 Yea.

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

Adminis-  
trator's  
Report

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

1. Zoning Violation - Court of Common Pleas

Patricia Lewis, Millsboro, Delaware, was cited for having improper setbacks for a mobile home in the River Village II Subdivision. On March 1, 1993, the Board of Adjustment denied Ms. Lewis' request for a variance, as she was cited by the Planning and Zoning Department for being in violation and requested to relocate the manufactured home properly on the lot. On July 14, 1993, the Court of Common Pleas heard a Zoning Code Violation that dealt with a manufactured home being improperly placed, and the owner would not correct the violation. The Attorney General's Office successfully prosecuted the case with testimony and documents supplied by the Planning and Zoning Office. Ms. Lewis was fined \$50, plus court costs, and given 30 days to correct the violation or a fine of \$50 a day thereafter would be assessed.

This is the first zoning violation that has been prosecuted through the Court of Common Pleas using the new procedure of issuing citations.

2. Court of Chancery - Smith vs. Sussex County

C. E. Rupert Smith III and Nancy E. Smith brought suit in the Court of Chancery against the Sussex County Council for denial of a zoning request in Millville, Sussex County, Delaware. The defendant posed the question whether the Ordinance of the Sussex County Council was duly adopted. The Motion to adopt the Ordinance received the affirmative votes of only two of the five members of Council, but received only one negative vote. The remaining two members expressly abstained from the vote, although it was alleged that they participated in the discussion of the matter.

Council itself determined that the Ordinance was not adopted. In its published notice of the results of the meeting, it stated that the Ordinance failed for a lack of three affirmative votes.

Adminis-  
trator's  
Report  
(con't)

If enacted, the Ordinance would have created a new zoning designation for a seven acre tract of land owned by the Smiths. The Smiths felt that since only three members voted, two votes would have been enough to pass the rezoning. The Court ruled that no action of the County Government, except as otherwise provided, shall be valid or binding unless adopted with the concurrence of a majority of all members of the County Government.

3. West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District

A public hearing on the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District is scheduled for Tuesday, July 20, 1993, at 7:00 p.m. in the Lewes Middle School Cafeteria located on Savannah Road in Lewes, Delaware. The Sussex County Engineering Department, along with its consultants, George, Miles & Buhr, the Whiting-Turner Contracting Company, and the Department of Natural Resources and Environmental Control will present the findings of the recently released Amendment No. 1 of the Wastewater Facilities Plan.

Additional engineering evaluations and financing revisions by the Sussex County Engineering Department and George, Miles & Buhr have resulted in lowering the expected sewer typical user cost from \$936 to \$547 per year.

All citizens in the West Rehoboth Expansion area are encouraged to attend the public hearing to express any opinions or comments they wish.

4. Sussex County Volunteer Firemen's Association Monthly Dinner Meeting

The Blades Fire Company will host the Sussex County Volunteer Firemen's Association monthly meeting Tuesday evening, July 27, 1993, 7:30 p.m., at the Blades Fire Hall, Blades, Delaware.

5. Building Code Seminar

The Sussex County Council will be sponsoring the Southern Building Code Congress International One & Two Family Building Inspections Course beginning August 24, 1993, and ending August 27, 1993. The course addresses the first nine chapters of the CABO One & Two Family Dwelling Code. The course will be taught by Lindsey Carter, Southern Building Code Congress International Assistant Manager of the Education Department, Birmingham, Alabama. It will be held at the Emergency Operations Center located on Road 319, Georgetown, Delaware. Classes will begin each morning at 8:30 a.m. and end each afternoon at 4:30 p.m.

Adminis-  
trator's  
Report  
(con't)

The course will be \$200 and will include all materials, except the CABO One & Two Family Dwelling Code book. The cost of this book is an additional \$25.00. If the course was taken at the Southern Building Code Congress International Headquarters, it would cost \$310, plus travel.

This is an excellent opportunity for builders to take this course, taught by a professional at a very reasonable cost. Anyone wishing to register should contact the Sussex County Building Code Department. The class will be limited to 40 students.

Change  
Order  
(SCRWF)

Mr. Wood, County Engineer, and Mr. Jones, Engineer III, discussed Change Order No. 1 for the South Coastal Regional Wastewater Facility (SCRWF).

M 297 93  
Issue  
Change  
Order  
(SCRWF)

A Motion was made by Mr. Collins, seconded by Mr. Cole, that based on the recommendation of the Design Engineer, George, Miles & Buhr, and the Sussex County Engineering Department, that the Sussex County Council authorizes the President of the Sussex County Council to issue Change Order No. 1 for the South Coastal Regional Wastewater Facility (SCRWF) Effluent Filters Contract to Hopkins Construction, Inc. for changing the specified 2 inch (2") galvanized steel air pipe to 2 inch (2") stainless steel at a cost of \$2,951.00 increasing the contract amount to \$690,651.00.

Motion Adopted: 5 Yea.

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

Change  
Order

Mr. Green, Director of Utility Construction, discussed Change Order No. 8 for the Dagsboro/Frankford Sanitary Sewer District.

M 298 93  
Issue  
Change  
Order #1  
Dagsboro/  
Frankford  
SSD

A Motion was made by Mr. Cole, seconded by Mr. Collins, that based on the recommendation of the Inspection Engineer, George, Miles & Buhr, and the Sussex County Engineering Department, that the Sussex County Council authorizes the President of the Sussex County Council to issue Change Order No. 8 for the Dagsboro/Frankford Sanitary Sewer District, to David A. Bramble, Inc., for the purchase of a well pump to be used by the Sussex County Operations and Maintenance Division and a specially constructed dumpster to accommodate the debris from the bar screen for an amount of \$3,492.37, increasing this contract amount to \$1,959,316.86.

Motion Adopted: 5 Yea.

M 298 93 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

Change Mr. Green, Director of Utility Construction, discussed Change  
Orders Order Nos. 5, 6, and 7 for the Dagsboro/Frankford Sanitary  
Sewer District.

M 299 93 A Motion was made by Mr. Collins, seconded by Mr. Benson, that  
Issue based on the recommendation of the Inspection Engineer, George,  
Change Miles & Buhr, and the Sussex County Engineering Department, that  
Order #5 the Sussex County Council authorizes the President of the Sussex  
Dagsboro/ County Council to issue Change Order No. 5 for the Dagsboro/  
Frankford Frankford Sanitary Sewer District, to Pierson Construction of  
SSD Delaware, Inc., for restoration discrepancies and additional  
required laterals, for an amount of \$30,117.39, increasing this  
contract amount to \$5,898,402.63.

Motion Adopted: 5 Yea.

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

M 300 93 A Motion was made by Mr. Collins, seconded by Mr. Cole, that  
Issue based on the recommendation of the Inspection Engineer, George,  
Change Miles & Buhr, and the Sussex County Engineering Department,  
Order #6 that the Sussex County Council authorizes the President of the  
Dagsboro/ Sussex County Council to issue Change Order No. 6 for the  
Frankford Dagsboro/Frankford Sanitary Sewer District, to Pierson Con-  
SSD struction of Delaware, Inc., for sanitary sewer realignment  
in the area of the Peninsula General Hospital site in an effort  
to avoid the existing ground contamination at State Route 26  
West and Route 113 North bound, for an amount of \$83,297.60,  
increasing this contract amount to \$5,981,700.23, subject to  
review by the County Attorney.

Motion Adopted: 5 Yea.

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

M 301 93 A Motion was made by Mr. Cole, seconded by Mr. Collins, that  
Issue based on the recommendation of the Inspection Engineer, George,  
Change Miles & Buhr, and the Sussex County Engineering Department,  
Order #7 that the Sussex County Council authorizes the President of the  
Dagsboro/ Sussex County Council to issue Change Order No. 7 for the  
Frankford Dagsboro/Frankford Sanitary Sewer District, to Pierson Con-  
SSD struction of Delaware, Inc., for a four hundred (400) linear

M 301 93 feet extension of ten inch (10") gravity sanitary sewer south  
(con't) of State Route 26 West, for an amount of \$23,424.00, increasing  
this contract amount to \$6,005,124.23.

Motion Adopted: 5 Yea.

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

Proposed Mr. Stevenson introduced a Proposed Ordinance entitled "AN  
Ordinance ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1  
AGRICULTURAL RESIDENTIAL DISTRICT FOR APPLIANCE REPAIR AND SALES,  
SATELLITE DISH SALES, AND AN ELECTRONICS AND LANDSCAPING OFFICE  
TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN  
NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.25 ACRES,  
MORE OR LESS" (C/U #1053) filed on behalf of Gilbert E. and  
Irene W. Passwaters. The Proposed Ordinance will be advertised  
for Public Hearing.

Proposed Mr. Cole introduced a Proposed Ordinance entitled "AN ORDINANCE  
Ordinance TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN  
AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COM-  
MERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN  
BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.43 ACRES, MORE OR  
LESS" (C/Z #1206) filed on behalf of Robert and Helen Littleton.  
The Proposed Ordinance will be advertised for Public Hearing.

M 302 93 A Motion was made by Mr. Stevenson, seconded by Mr. Cole, to  
Council- give \$150.00 from Mr. Stevenson's Councilmanic Account to the  
manic Susse Central Soccer Boosters to help defray the cost of a  
Grant trip to Cape May, New Jersey.

Motion Adopted: 5 Yea.

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

M 303 93 A Motion was made by Mr. Collins, seconded by Mr. Stevenson,  
Council- to give \$200.00, \$100.00 from Mr. Collins' Councilmanic Account  
manic and \$100.00 from Mr. Dukes' Councilmanic Account, to the Laurel  
Grant Pop Warner Association to provide financial assistance for its  
operational 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 304 93 Councilmanic Grant A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to give \$250.00 from Mr. Collins' Councilmanic Account to the Town of Dagsboro for maintenance and improvements to the Prince George's Chapel.

Motion Adopted: 5 Yea.

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

M 305 93 Councilmanic Grant A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to give \$250.00 from Mr. Collins' Councilmanic Account to the Delmar Public Library to help defray the cost of a people counter.

Motion Adopted: 5 Yea.

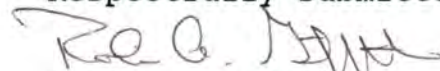
Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

Billboard Moratorium Mr. Stickels, County Administrator, discussed the County's moratorium on billboards. On March 16, 1993, a Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115, THE CODE OF SUSSEX COUNTY, DELAWARE, BY AMENDING ARTICLES IV AND XI, WHICH MAKE REFERENCE TO REGULATIONS AND PERMITTED USES OF SIGNS". At that time, the Public Hearing was left open and action was deferred to allow time for a response from DelDOT regarding their sign regulations and the enforcement of the regulations. Mr. Stickels advised that, as of this date, no response has been received from the State; however, State officials are planning to meet with Council regarding this issue in early August. It was the consensus of Council that the moratorium remain in effect until a determination has been made regarding the State's requirements.

Citizen's Concern Jerry Taylor and Charles Smith, residents of Sussex County, were in attendance to advise Council of the hardships that small business owners are experiencing due to sign regulations.

M 306 93 Adjourn A Motion was made by Mr. Cole, seconded by Mr. Collins, to adjourn at 11:41 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council