

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-AUGUST 6, 1996

Executive Session

An Executive Session of the Sussex County Council was held on Tuesday, August 6, 1996, at 9:40 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware, for the purpose of discussing land acquisition. The Executive Session concluded at 9:50 a.m.

Call to Order

The regular meeting of the Sussex County Council was held on Tuesday, August 6, 1996, at 10:10 a.m. in the Court of Chancery, 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 316 96 A Motion was made by Mr. Collins, seconded by Mr. Stevenson, Adopt Agenda to Adopt the Agenda. Motion Adopted by Voice Vote.

M 317 96 A Motion was made by Mr. Collins, seconded by Mr. Stevenson, Approve Minutes to approve the minutes of the previous meeting dated July 30, 1996.

Motion Adopted: 4 Yea, 1 Absent.

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

Corre-
spondence

Mr. Bayard, County Attorney, read the following correspondence:

JOAN K. O'DAY, PRESIDENT, SEAFORD DISTRICT LIBRARY, SEAFORD, DELAWARE.

RE: Thanking Council for increasing the Seaford District Library operating budget this year.

For the record, Mr. Stickels, County Administrator, noted that eight letters have also been received pertinent to the moratorium on the acceptance of any applications for rezonings, conditional uses, or subdivisions imposed by the Sussex County Council on Tuesday, July 23, 1996. This correspondence will be read at the Public Hearing regarding same. The letters are available in the Office of the Clerk of the County Council if anyone would like to read or obtain copies prior to the Public Hearing.

Old
Business
C/U
No. 1160

Conditional Use No. 1160 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROPANE STORAGE TANKS (EXPANSION TO AN EXISTING PETROLEUM STORAGE FACILITY) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.9 ACRES, MORE OR LESS", filed on behalf of H. R. Phillips, Inc., was discussed. A Public Hearing on this application was held on July 30, 1996, at which time action was deferred due to the fact that only three Councilmen were present to vote. Since that time Mr. Benson has listened to the taped proceedings of this application.

M 318 96
Adopt
Ordinance
No. 1099
(C/U
No. 1160)

A Motion was made by Mr. Benson, seconded by Mr. Collins, to Adopt Ordinance No. 1099 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROPANE STORAGE TANKS (EXPANSION TO AN EXISTING PETROLEUM STORAGE FACILITY) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.9 ACRES, MORE OR LESS" (Conditional Use No. 1160) filed on behalf of H. R. Phillips, Inc., with the following condition:

1. The final site plan shall be reviewed and approved by the Planning and Zoning Commission.

Motion Adopted: 3 Yea, 1 Abstention, 1 Absent.

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

Findings
of Fact

The Council found that the Conditional Use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use is an expansion of an existing petroleum storage facility, by adding propane storage, to serve the applicant's customers in its service area.
2. The applicant established by substantial evidence that the proposed use will be permitted and regulated by the Department of Natural Resources and Environmental Control and will have no adverse impact on the character of the neighborhood, property values therein, traffic, or the environment in the area.
3. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Hook-Up
Status
Report
WREDBSSD

Mr. Archut, Director of Planning and Permits, presented to Council a "Hook-Up Status Report" dated August 6, 1996, for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. There are approximately 5,000 hook-ups to be made in West Rehoboth, which began December 29, 1995. As of August 5, 1996, 2,102 permits have been issued and 1,670 hook-ups have been completed. Mr. Archut stated that all connections must be completed by December 29, 1996. Those not connected will begin receiving service charge bills effective that date and will be subject to Court action to compel connection.

Councilman

Mr. Cole entered the meeting during Mr. Archut's report.

FY '97
Delaware
Transit
Corporation
Funding

Mr. Stickels, County Administrator, discussed Delaware Transit Corporation's recommended funding of the specialized transportation service for the elderly and handicapped in Sussex County for FY '97. The total amount of funding recommended, \$488,621, is the same as last year. Although inquiries have been received from agencies in Sussex County conveying the need for increased transportation funding, no increase has been recommended for FY '97. Arlene Littleton, Executive Director, Sussex County Senior Services, Inc., was present and stated that if funding is not increased, they will have to cut at least one route, and possibly two, from their current service area this year. Mr. Stickels informed Council that a meeting with the appropriate agencies will be held in the near future to discuss an increase in funding by the Delaware Transit Corporation for Sussex County.

M 319 96
Approve
FY '97
Delaware
Transit
Corporation
Funding

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to approve the Delaware Transit Corporation distribution of funding for specialized transportation in Sussex County for FY '97 as follows:

Sussex County Senior Services, Inc.	\$340,820
Cape Henlopen Senior Center	29,200
Indian River Senior Center	2,100
Easter Seal Rehabilitation Center	31,992
Laurel Senior Center	46,500
Lewes Senior Citizens Center	16,100
Nanticoke Senior Center	21,909

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, discussed the following information in his County Administrator's Report:

Adminis-
trator's
Report
(cont.)

1. Cabinet Committee on Planning

The State of Delaware Cabinet Committee on Planning will meet in the Sussex County Council Chambers on Friday, September 13, 1996, at 9:00 a.m. One item on the agenda will be a presentation by Whitman, Requardt and Associates, the Planning and Zoning Department, and Mr. Stickels regarding Sussex County's Proposed Land Use Plan.

The Cabinet Committee on Planning is made up of Governor Thomas R. Carper's cabinet members. All meetings are open to the public.

Chair

At this point in the meeting Mr. Dukes turned the Chair over to Mr. Collins to conduct the next three items on the Agenda.

Agenda
Items

Mr. Stickels, County Administrator, explained the reason for placing the next three items on the Agenda regarding the moratorium imposed on July 23, 1996, on applications for rezonings, conditional uses, or subdivisions. Apparently numerous letters have been written and phone calls made to the Attorney General's Office challenging Council's position and questioning the legality of the moratorium. As of this date, the Attorney General's Office has not made a ruling.

Statement/
Mr. Collins

Mr. Collins read the following statement into the record regarding action by the Sussex County Council on July 23, 1996, to impose a moratorium on applications for rezonings, conditional uses, or subdivisions:

"I would like to state that I sincerely believe that there is a need to protect farmland from unnecessary development. There are over 24,000 developable lots on the record at this time. This should be sufficient for several years. This is why I first introduced the request for a moratorium. I felt it was necessary until the new Land Use Plan is adopted. However, it was never my intention to create a hardship on anyone. I believe the course of action being proposed by the staff will meet any legal challenge and accomplish what my original intent was--to preserve farmland."

M 320 96
Rescind
Moratorium

A Motion was made by Mr. Dukes, seconded by Mr. Benson, that the moratorium imposed on July 23, 1996, on changes of zone, conditional uses, and subdivisions be rescinded until after the County Council has conducted a Public Hearing to be held at 11:00 a.m. on August 27, 1996, after which the

M 320 96
(cont.)

Council will reconsider the moratorium after receiving public input.

Motion Adopted: 5 Yea.

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

M 321 96
Withdraw
Introduc-
tion of
Ordinance

A Motion was made by Mr. Dukes, seconded by Mr. Benson, to withdraw the introduction of the Proposed Ordinance on July 30, 1996, entitled "AN ORDINANCE IMPOSING A MORATORIUM UPON APPLICATION FOR CHANGES OF A ZONE DESIGNATION, CONDITIONAL USES, OR THE SUBDIVISION OF LAND PENDING THE ADOPTION OF A COMPREHENSIVE LAND USE PLAN."

Motion Adopted: 5 Yea.

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

Chair

Mr. Collins turned the meeting back over to Mr. Dukes at this time and Mr. Dukes resumed as Chair.

Review of
Proposed
Ordinance

Mr. Schrader, Assistant County Attorney, reviewed the changes in the most recent draft of the Proposed Ordinance entitled "AN ORDINANCE IMPOSING A MORATORIUM UPON APPLICATION FOR CHANGES OF ZONE DESIGNATION, CONDITIONAL USES, OR THE SUBDIVISION OF LAND PENDING THE ADOPTION OF A COMPREHENSIVE LAND USE PLAN" for the benefit of Council, as well as the public. Possible exceptions to the provisions of the Proposed Ordinance, for example conditional use applications by public utilities, will be prepared for Council's review and consideration at the Public Hearing.

Acceptance
of Applica-
tions by
Planning
and Zoning

Mr. Stickels, County Administrator, advised that Mr. Lank, Director of Planning and Zoning, will once again be accepting applications for changes of zone, conditional uses, and subdivisions. However, all applications must be complete when submitted. The application fee and pertinent paperwork, such as surveys, copies of deeds or contracts of sale, other agency approvals, etc., must all be provided upon submission of the application. Partial applications will not be accepted by the Planning and Zoning Department.

Proposed
Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE IMPOSING A MORATORIUM UPON APPLICATION FOR CHANGES OF ZONE DESIGNATION, CONDITIONAL USES, OR THE SUBDIVISION OF LAND PENDING THE ADOPTION OF A COMPREHENSIVE LAND USE PLAN". The Proposed Ordinance will be advertised for Public Hearing on August 27, 1996, at 11:00 a.m.

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 A PRIVATE RUNWAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.66 ACRES, MORE OR LESS" (Conditional Use No. 1165) filed on behalf of John J. Reed. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Stevenson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SOCIAL ORGANIZATION MEETING FACILITY AND RECREATION FIELDS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 25.58 ACRES, MORE OR LESS" (Conditional Use No. 1166) filed on behalf of Milford Moose Lodge No. 2316. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance

Mr. Collins introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 21,344 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1286) filed on behalf of I.P.M. Equities, Inc. The Proposed Ordinance will be advertised for Public Hearing.

M 322 96
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Collins, to give \$1,000.00 from Mr. Cole's Councilmanic Account to the Town of Bethany Beach to purchase playground equipment for the Town's recreational area located on Garfield Parkway.

Motion Adopted: 5 Yea.

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

M 323 96
Council-
manic
Grant

A Motion was made by Mr. Collins, seconded by Mr. Benson, to give \$400.00 from Mr. Collins' Councilmanic Account to the Oak Orchard-Riverdale Civic Association for roadway and street replenishment projects within the immediate community.

Motion Adopted: 5 Yea.

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

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M 324 96
Council-
manic
Grant

A Motion was made by Mr. Benson, seconded by Mr. Cole, to give \$1,000.00 from Mr. Dukes' Councilmanic Account to the City of Seaford Department of Parks and Recreation to replace old and unsafe equipment for the Seaford Little League Football Program.

Motion Adopted: 5 Yea.

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

Thanks

Mr. Dukes thanked everyone on behalf of his family for their cards and acts of kindness in the passing of his father last week.

M 325 96
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Collins, to adjourn at 11:00 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Susan W. Webb

Susan W. Webb
Acting Clerk of the County Council