

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-AUGUST 11, 1992

Call to
Order

The regular meeting of the Sussex County Council was held on Tuesday, August 11, 1992, at 10:00 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware, with the following members present:

Dale R. Dukes	President
Ralph E. Benson	Vice-President
George B. Cole	Member
George J. Collins	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 339 92
Approve
Minutes

A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to approve the minutes of the previous meeting dated August 4, 1992. Motion Adopted by Voice Vote.

Corre-
spondence

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

LEROY KLEIN, PRESIDENT, HOME BUILDERS ASSOCIATION OF LOWER DELAWARE, INC., DOVER, DELAWARE
RE: Forwarding an article to Kent and Sussex County Officials regarding the homeless and affordable housing. It is also the Association's position that any impact fees, or any other fees, be collected at settlement of the sale of a property similar to other closing costs.

Economic
Development
Revenue
Bond/
Rehoboth
Mall

Mr. Stickels, County Administrator, reported to Council regarding a proposed amendment to the tax-exempt financing provided by the County for the Rehoboth Mall Project by issue of an Economic Development Revenue Bond in 1984. The proposed change is a result of new investors planning to purchase an interest in the Rehoboth Mall Limited Partnership and refinancing at a rate substantially below the current rate on the Bond. The new investors will pay the County Council \$7,500 to cover the County's administrative cost. Charles S. McDowell, Esquire, and Harold I. Sammons, III, Esquire, Bond Counsel (Potter Anderson & Corroon), were in attendance to answer Council's questions. Mr. McDowell also presented Council with copies of a Proposed Resolution entitled "A RESOLUTION CONFIRMING THE AUTHORITY OF THE COUNTY ADMINISTRATOR TO ENTER INTO CERTAIN AGREEMENTS RELATING TO THE COUNTY'S FIRST AMENDED AND RESTATED ECONOMIC DEVELOPMENT REVENUE BOND (REHOBOTH MALL PROJECT) SERIES 1984".

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M 340 92
Adopt
Resolution
No. R 018 92
Economic
Development
Revenue
Bond/
Rehoboth
Mall

A Motion was made by Mr. Stevenson, seconded by Mr. Benson to Adopt Resolution No. R 018 92 entitled "A RESOLUTION CONFIRMING THE AUTHORITY OF THE COUNTY ADMINISTRATOR TO ENTER INTO CERTAIN AGREEMENTS RELATING TO THE COUNTY'S FIRST AMENDED AND RESTATED ECONOMIC DEVELOPMENT REVENUE BOND (REHOBOTH MALL PROJECT) SERIES 1984".

Motion Adopted: 5 Yea.

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

Board of
Appeals

Mr. Stickels, County Administrator, informed the Council that the term of Norwood Marvil on the Sussex County Board of Appeals had expired. The Board of Assessment Review consists of 5 members, not more than three of which can be from the same political party, who serve for 5-year terms.

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Board of
Appeals
Appointment

A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to appoint Mr. Leonard Rayne, of Delmar, Delaware, to serve as a member on the Sussex County Board of Appeals, and whose term shall expire in August 1997.

Motion Adopted: 5 Yea.

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

Human
Service
Grants

Mr. Stickels, County Administrator, presented Council with a listing of organizations which were sent letters advising them that the Sussex County Council will be receiving Fiscal 1993 Human Service Grant requests until Friday, September 4, 1992. Mr. Stickels requested Council to review this listing and inform him of any other organization which should be aware of the County's Human Service Grant program. The \$95,000 that is budgeted for Human Service Grant awards will be distributed in November 1992.

Town of
Frankford
Building
Moratorium
Update

Mr. Stickels, County Administrator, reviewed a report which brought Council up-to-date regarding the building moratorium imposed by Council for the Town of Frankford to expire on September 30, 1992. Mr. Stickels reported

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that the Town of Frankford anticipates being able to finalize its own Zoning Code within the time-frame of September 30, 1992.

Admin-
istrator's
Report

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

1. Mr. Charles Stevenson returned a check in the amount of \$500 to the Sussex County Council. The County Council had granted these funds at the Council meeting of July 7, 1992 to allow Mr. Stevenson to represent the United States at the World Games which were held in Spain. However, Mr. Stevenson was not able to raise the necessary funds and returned the check thanking Council for their consideration.
2. Mr. Harry Dukes, President of Eastern Shore Poultry, has announced the start-up of operations at the Sussex County Industrial Park. Currently, Eastern Shore Poultry employs 49 individuals. Eastern Shore Poultry anticipates opening a second line within a month and will be adding another 25 employees. A ribbon-cutting ceremony will be planned for sometime in September.
3. Mr. Stickels presented Council with an article that appeared in the July/August 1992 issue of Ducks Unlimited, which described the benefits of wetlands.

Proposed
Ordinance
C/Z #1172

Mr. Dukes introduced a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 7.2165 ACRES, MORE OR LESS" (C/Z #1172) filed on behalf of Donald Ward. The Proposed Ordinance will be advertised for a Public Hearing.

Proposed
Ordinance
C/Z #1173

Mr. Benson introduced a 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.28 ACRES, MORE OR LESS" (C/Z #1173) filed on behalf of Jimmie Nanney. The Proposed Ordinance will be advertised for a Public Hearing.

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M 342 92
Council-
manic
Grant/
Georgetown
Fire Co.

A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to grant \$500.00 (from Mr. Stevenson's Councilmanic Account) to the Georgetown Fire Company, Inc., to be used to install an electric stair chair at their Fire Hall.

Motion Adopted: 5 Yea.

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

M 343 92
Council-
manic
Grant/
Sussex
Central
Football
Boosters

A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to grant \$500.00 (\$250.00 from Mr. Stevenson's and Mr. Collins' Councilmanic Accounts) to the Sussex Central Football Boosters to be used to help defray expenses incurred during their upcoming 1992 Football season.

Motion Adopted: 5 Yea.

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

M 344 92
Council-
manic
Grant/
Memorial
Fire Co.

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to grant \$600.00 (from Mr. Benson's Councilmanic Account) to the Memorial Fire Company to be used to offset expenses incurred during their Fourth of July fireworks display.

Motion Adopted: 5 Yea.

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

Proposed
Resolution/
Upgrade
U.S. Rt.
113 (Milford
to George-
town)

Mr. Benson expressed his concern at the number of traffic accidents and recent fatalities occurring on U. S. Route 113 from Milford to Georgetown. To address these safety concerns, Mr. Stickels, County Administrator, read in its entirety a Proposed Resolution entitled "RESOLUTION REQUESTING THE DELAWARE DEPARTMENT OF TRANSPORTATION TO UPGRADE U.S. ROUTE 113 FROM MILFORD TO GEORGETOWN AS SOON AS POSSIBLE". Upon Council's passage of this Proposed Resolution, Mr. Stickels will forward a copy to the Delaware Department of Transportation.

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M 345 92
Adopt
Resolution
No. R 019 92
(Upgrade
U.S. Route
113 -
Milford to
Georgetown)

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to Adopt Resolution No. R 019 92 entitled "RESOLUTION REQUESTING THE DELAWARE DEPARTMENT OF TRANSPORTATION TO UPGRADE U.S. ROUTE 113 FROM MILFORD TO GEORGETOWN AS SOON AS POSSIBLE" as read by Mr. Stickels, County Administrator.

Motion Adopted: 5 Yea.

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

Paramedic
Advisory
Committee
Changes/
Vice-
Chairman
and
Quorum

Mr. William H. Stevenson IV, Paramedic Director, and William Gordy, Chairman of the Paramedic Advisory Committee, were in attendance to discuss two proposed changes to the Paramedic Advisory Committee Resolution. The first proposed change would allow the election of a Vice-Chairman of the Advisory Committee to allow meetings to be held in the absence of the Chairman, and the second change would involve the current requirement that a quorum be present at meetings in order to conduct business. It was explained that it is sometimes very difficult to get a quorum present at the meetings which results in the committee not being able to conduct the required business.

M 346 92
Paramedic
Advisory
Committee
Changes

A Motion was made by Mr. Cole, seconded by Mr. Collins, that the Resolution creating the Paramedic Advisory Committee be changed to allow the majority of the members present to conduct business, provided there is adequate notice of the meeting to all members; and to permit the election of a Vice-Chairman by the Committee.

Motion Adopted: 5 Yea.

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

Paramedic
Unit
Deployment

Mr. Gordy also advised Council concerning the deployment of the County's fifth paramedic unit. It was the Paramedic Advisory Committee's initial decision to have this unit located near Ellendale. As a result of the southern-most Kent County paramedic unit to be located in the Harrington area, it is now recommended by the Advisory Committee that the County's fifth paramedic unit be located in the Lincoln area. This change of location

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will still permit the goal for paramedic unit deployment to allow for an eight to ten minute response time to be met.

M 347 92
Amend
Minutes

A Motion was made by Mr. Cole, seconded by Mr. Benson, that the minutes of August 4, 1992, page 5, be amended to clarify that Mr. Green's discussion with Council regarding two of the three conditional acceptances was for wastewater facilities constructed in the Fenwick Island Sanitary Sewer District, not the Fenwick Island Water District.

Motion Adopted: 5 Yea.

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

FAA
Grant/
Land
Acquisition
and Obstruc-
tion
Removal

Mr. Calio, Director of the Airport and Industrial Park Operations, reported to Council that notification had been received from both the Federal Aviation Administration and Senator Biden's office that the County has been granted \$759,600 under the terms of the Airport and Airway Improvement Act of 1982 to be used for land acquisition and obstruction removal at the Airport. At the Council meeting of June 2, 1992, Council authorized Mr. Calio to submit the Preapplication necessary to receive this funding. This \$759,600 grant by the FAA represents 90 percent funding, with the State and County contributing the remaining 10 percent. Upon the County's acceptance of this funding from the FAA, the County's share of this project will not exceed \$37,500.

M 348 92
FAA Grant/
Land
Acquisition
and
Obstruction
Removal at
Airport

A Motion was made by Mr. Collins, seconded by Mr. Benson, to accept the sum of \$759,600 under the terms of the Airport and Airway Improvement Act of 1982, as amended, to accomplish the following work at Sussex County Airport as Project No. 3-10-0007-02-92: Land Acquisition in Runway Protection Zone (15 Acres Fee Simple - 112.8 Acres Aviation Easement), and Obstruction Removal; and that the Sussex County Council commit their five percent, not to exceed \$37,500 toward the cost of the Project.

Motion Adopted: 4 Yea; 1 Nay.

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

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M 349 92
Recess

At 11:09 a.m., a Motion was made by Mr. Collins, seconded by Mr. Benson, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

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

Public
Hearing/
2 Ordinances
Regarding
Amusement
Places
(Amend
Chapter 115)

A Public Hearing was held on Proposed Ordinances entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO ZONING AND SITE PLAN REVIEWS FOR AMUSEMENT PLACES" and "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO AMUSEMENT PLACES IN B-1 NEIGHBORHOOD BUSINESS DISTRICTS AND C-1 GENERAL COMMERCIAL DISTRICTS AS CONDITIONAL USES". Mr. Bayard read into the record a letter sent to Attorney General Charles M. Oberly, III, from Daniel R. Kiley, State Fire Marshal. Mr. Kiley's letter states that the Fire Marshal's office believes Bungee Jumping presents an imminent risk to public health and safety, and requests the assistance of the Attorney General's Office in obtaining an injunction against such operations until reasonable standards for public safety can be implemented. The Public Hearing was closed.

M 350 92
Adopt
Ordinance
No. 848/
Zoning and
Site Plan
Reviews for
Amusement
Places

A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Ordinance No. 848 entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO ZONING AND SITE PLAN REVIEWS FOR AMUSEMENT PLACES".

Motion Adopted: 5 Yea.

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

M 351 92
Adopt
Ordinance
No. 849/
B-1 & C-1
Amusement
Places as
Conditional
Uses

A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Ordinance No. 849 entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO AMUSEMENT PLACES IN B-1 NEIGHBORHOOD BUSINESS DISTRICTS AND C-1 GENERAL COMMERCIAL DISTRICTS AS CONDITIONAL USES".

Motion Adopted: 5 Yea.

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

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M 352 92
Rescind
Moratorium/
Amusement
Places

A Motion was made by Mr. Collins, seconded by Mr. Cole, to rescind the moratorium adopted by Council on July 14, 1992 which banned the further granting of site plan approvals, zoning changes, or conditional use permits for amusement places in B-1 Neighborhood Business Districts and C-1 General Commercial Districts.

Motion Adopted: 5 Yea.

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

Public
Hearing
C/Z #1167

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 4.0 ACRES, MORE OR LESS" (C/Z #1167) filed on behalf of Leslie J. Brown. Councilmen Stevenson and Cole questioned whether Mr. Brown's needs could also be served under the zoning classification of a B-1 Neighborhood Business District. The Public Hearing was closed.

M 353 92
Adopt
Proposed
Ordinance/
Changing
C/Z #1167
from C-1
to B-1
(DENIED)

A Motion was made by Mr. Stevenson, seconded by Mr. Cole, to amend the zoning classification of Change of Zone No. 1167 from a C-1 General Commercial District to a B-1 Neighborhood Business District, and to adopt a Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS" (C/Z #1167) filed on behalf of Leslie J. Brown.

Motion Denied: 3 Nay; 2 Yea.

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

M 354 92
Adopt
Ordinance
No. 850
(C/Z #1167)

A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Ordinance No. 850 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

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Con't.

LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS" (C/Z #1167) filed on behalf of Leslie J. Brown.

Motion Adopted: 3 Yea; 2 Nay.

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

Findings
of Fact/
C/Z #1167

The Council found that the change of zone was appropriate legislative action based upon the following findings of fact:

1. The applicant established by substantial evidence that the adjoining commercial site requires additional parking to alleviate overcrowding at the commercial site and customer parking on the shoulder of Delaware Route 9 and Route 113.
2. The applicant established by substantial evidence that the proposed change of zone will have no adverse impact on the character of the neighborhood, property values, or the environment in the area. Traffic will not be adversely affected; in fact, traffic flow will be improved and public safety will be enhanced.
3. The proposed expansion of parking for the existing adjoining commercial site is consistent with the purposes of the Comprehensive Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
C/Z #1168

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 0.8642 ACRES, MORE OR LESS" (C/Z #1168) filed on behalf of Chaski Associates, L.P. The Public Hearing was closed.

M 355 92
Adopt
Ordinance
No. 851
(C/Z #1168)

A Motion was made by Mr. Collins, seconded by Mr. Benson to Adopt Ordinance No. 851 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM

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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 0.8642 ACRES, MORE OR LESS (C/Z #1168) filed on behalf of Chaski Associates, L.P.

Motion Adopted: 5 Yea.

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

Findings
of Fact/
C/Z #1168

The Council found that the change of zone was appropriate legislative action based upon the following findings of fact:

1. The applicant established by substantial evidence that the proposed change of zone is intended to bring a preexisting nonconforming commercial use into conformity with the Comprehensive Land Use Plan, and will require the applicant to conform his past and existing activities to existing C-1 General Commercial Ordinance requirements.
2. The applicant established by substantial evidence that there will be no adverse impact on the character of the neighborhood, property values therein, or the environment in the area.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 356 92
Adjournment

At 2:25 p.m., a Motion was made by Mr. Collins, seconded by Mr. Benson, to adjourn. Motion Adopted by Voice Vote.

Respectfully submitted,

Nancy Cordrey

Nancy J. Cordrey
Acting Clerk of the County Council