

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-AUGUST 30, 1994

Call to
Order

The regular meeting of the Sussex County Council was held on Tuesday, August 30, 1994, 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 368 94
Approve
Minutes

A Motion was made by Mr. Collins, seconded by Mr. Cole, to approve the minutes of the previous meeting dated August 23, 1994. Motion Adopted by Voice Vote.

Corre-
spondence

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

NEAL J. BOYLE, PRESIDENT, SUSSEX COUNTY STAMP CLUB, LEWES, DELAWARE.

RE: Requesting financial assistance from Councilmanic funds to supplement monies raised by the membership.

ROBERT G. GIBBS, WILSON, HALBROOK & BAYARD, GEORGETOWN, DELAWARE.

RE: Lawyers v. Sussex County Employees 1994 Softball Game scheduled for Friday, September 9, 1994, beginning at 5:30 p.m. at the Georgetown Softball Park (South Bedford Street Extended).

MARGARET MITCHELL, PRESIDENT, MILLSBORO HISTORICAL SOCIETY, MILLSBORO, DELAWARE.

RE: Thanking Mr. Collins for Councilmanic Grant to support the ongoing restoration of the Godwin School on Route 20 in Millsboro.

Archaeo-
logical
Study
Update
Old Post
Office
Site

Mr. Archut, Director of Planning and Permits, County Engineering Department, updated Council on the archaeological study of the old post office site being performed by Dames & Moore of Bethesda, Maryland. During Phase I of the investigation, earlier deposits than expected were found, including broken glass dating pre-1850. The Delaware State Historic Preservation Office has determined that it is necessary to proceed with Phase II of the study to identify if these findings are, in fact, historically significant artifacts or merely pieces of fill material that may have been used during past construction. The Phase II study will be confined mostly to the area next to the post office, requiring considerable removal of concrete. The concrete removal is estimated to cost

Update
(Continued)

approximately \$21,500, for which a change order to the original contract with Dames & Moore will be necessary.

M 369 94
Defer
Action
on Change
Order for
Phase II
Archaeo-
logical
Study

A Motion was made by Mr. Cole, seconded by Mr. Benson, that action be deferred on authorization of a change order in the amount of \$21,500 for concrete removal necessary to proceed with Phase II of the archaeological study of the old post office site by Dames & Moore in order to investigate other options which may be more cost-effective, including the use of County personnel to perform said work.

Motion Adopted: 5 Yea.

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

Bid Results
Contract "C"
WREDBSSD

Mr. Wood, County Engineer, advised Council of bid results for Contract "C" of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The bid opening was held on Monday, August 29, 1994, at 4:00 p.m. in Council Chambers. The following bids were received:

<u>Contractor</u>	<u>Bid Amount</u>
L. A. Merrell Construction Co.	\$3,057,530.00
Marquis Construction Co., Inc.	\$3,134,311.20
Kuhn Construction	\$3,544,750.00
PG Construction Co., Inc. of Maryland	\$3,582,000.00
McElwee-Scarborough Const. Corp.	\$3,908,500.00

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

Conflict
of Interest

Mr. Benson left the meeting at this time due to a conflict of interest in regards to Change of Zone No. 1224 and Conditional Use No. 1072, both of which were filed on behalf of Delaware State Housing Authority.

Old
Business
Change
of Zone
No. 1224
and Condi-
tional Use
No. 1072

Change of Zone No. 1224 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.53 ACRES, MORE OR LESS", filed on behalf of Delaware State Housing Authority, and Conditional Use No. 1072 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES FOR 80 UNITS AND A

Old
Business
(Continued)

COMMUNITY BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.53 ACRES, MORE OR LESS" filed on behalf of Delaware State Housing Authority, were discussed. Public Hearings were held on both applications by the County Council on May 3, 1994, at which time action was deferred. Various options were presented for Council's consideration which included approval or denial of the applications as submitted, reduction in the number of units proposed, phasing of the project, and site plan revisions to accommodate a larger buffer area at the rear property line.

M 370 94
Adopt
Proposed
Ordinance
(MOTION
FAILED)

A Motion was made by Mr. Cole, seconded by Mr. Collins, to adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.53 ACRES, MORE OR LESS" (Change of Zone No. 1224) filed on behalf of Delaware State Housing Authority.

Motion Failed: 2 Yea, 2 Nay, 1 Absent.

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

Findings
of Fact

The findings of fact and recommendations of the Planning and Zoning Commission were incorporated into the record. The Council found that the proposed change of zone was not in accordance with the Comprehensive Development Plan and did not promote the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Sussex County. Particularly, in support of its denial, the Council found that the proposed rezoning would set a precedence for similar expansions of increased density into the existing AR-1 Agricultural Residential District. The Council found that the area encompassed by the proposed rezoning already suffered from pressures associated with density. The Council found that the area has traffic problems and high traffic counts. The Council found that the area would not be able to handle the additional pedestrian traffic which would be created as a result of the proposed rezoning. The Council found that a primary reason presented by the applicant for approval of the rezoning was economics, and the Council found that this was insufficient reason for support of the rezoning. The Council found that detached single-family subdivisions, as permitted in AR-1 Agricultural Residential Zoning Districts, are more compatible with the area than what would be permitted under the rezoning.

M 371 94
Adopt
Proposed
Ordinance
(DENIED)

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 MULTI-FAMILY DWELLING STRUCTURES FOR 80 UNITS AND A COMMUNITY BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.53 ACRES, MORE OR LESS" (Conditional Use No. 1072) filed on behalf of Delaware State Housing Authority.

Chair

Mr. Dukes turned the Chair over to Mr. Collins and seconded the Motion.

M 371 94
(Continued)

Motion Denied: 4 Nay, 1 Absent.

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

Findings
of Fact

The Council found that the proposed conditional use was not in accordance with the Comprehensive Development Plan and did not promote the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of Sussex County, nor was it for the general convenience and welfare of the inhabitants of Sussex County. The Council adopted the reasons stated for its denial of Change of Zone No. 1224. The Council found that a conditional use of land in a MR Medium Density Residential District for multi-family dwelling structures could not be granted since the underlying rezoning had been denied.

Housing
Code

It was agreed that a review of Sussex County Housing Code enforcement procedures will be placed on the next County Council agenda for discussion.

Chair

Mr. Collins turned the Chair over to Mr. Dukes.

Recess

Mr. Dukes declared a five-minute recess at 11:15 a.m.

Reconvene

Mr. Dukes called Council back into session at 11:23 a.m.

Councilman

Mr. Benson rejoined the meeting.

Attorney

Mr. Bayard, County Attorney, replaced Mr. Jones, Assistant County Attorney, as the attorney for the remainder of the meeting.

Greenwood
Library
Expansion

Mr. Stickels, County Administrator, requested authorization from Council to apply to the State of Delaware Division of Libraries for Public Library Construction Assistance for FY '96 in the amount of \$125,000 for expansion of the Greenwood Library. The addition would consist of 1,700

Greenwood
Library
Expansion
(Continued)

square feet and would allow for the creation of a reference section, improved children's area, additional stack area for adult collection, and larger meeting room. Of the total project cost of \$125,000, \$50,000 will be funded by the State of Delaware, \$50,000 by the County, and \$25,000 from private sources (such as the Friends of the Greenwood Library).

M 372 94
Authorize
Application
Delaware
Public
Library
Construction
Assistance
FY '96

A Motion was made by Mr. Stevenson, seconded by Mr. Cole, that the Sussex County Council authorizes the Sussex County Administrator to submit an application to the Delaware Division of Libraries for Delaware Public Library Construction Assistance for FY '96 in the amount of \$125,000.

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, submitted the following for Council's information in his County Administrator's Report:

1. Sussex County Growth and Infrastructure Forum

The University of Delaware College of Urban Affairs and Public Policy will be hosting a Growth and Infrastructure Forum on Friday, October 7, 1994, at the Higher Education Building, Delaware Technical and Community College, Georgetown, Delaware. Mr. Stickels included with the report a copy of the preliminary program. The format for the event includes a keynote presentation, comments from members of the Governor's Cabinet Committee on Planning, issue focus groups, and general session reporting on priority issues.

Both the public and private sector are encouraged to attend the conference. To register, contact Gloria Wilkins, University of Delaware, 831-8971. Registrations will be accepted up until Friday, September 30, 1994.

Mr. Stickels would encourage the County Council, Planning and Zoning Commission, and Board of Adjustment to attend this worthwhile program.

2. Crime Bill

The United States Senate passed the Crime Bill on Thursday, August 25, 1994. Six Republican senators joined the 55 Democratic senators in approving a

Adminis-
trator's
Report
(Continued)

\$30.2 billion anti-crime package. The House of Representatives had earlier approved the conference agreement. The bill now goes to President Clinton for his signature.

The key elements of the Crime Bill of importance to county governments were retained. These elements include \$5.5 billion in prevention programs, \$7.9 billion for corrections, \$8.8 billion for community police, and \$1.2 billion for courts. In addition to the funding, a ban on assault weapons and high capacity ammunition magazines was also included.

Mr. Stickels will be meeting with staff from our congressional representatives after Labor Day to investigate what programs Sussex County can best participate in. Mr. Stickels believes that this legislation will provide Sussex County with an opportunity to attack problems that we are having in our County with crime.

Route 1
Development
Moratorium
Request

Mable M. Granke, member of the Rehoboth Beach Planning Commission, and John A. Salin, Commissioner of Rehoboth Beach, appeared before Council to request that a development moratorium be declared along the Route 1 corridor until the Sussex County Comprehensive Land Use Plan is adopted and has legal standing. Ms. Granke stated that development along Route 1 is not merely a concern of the City of Rehoboth Beach, but of all the coastal towns, from Broadkill Beach to Fenwick Island. A moratorium would allow for the infrastructure that is necessary in the development of Route 1 to be fully addressed during the planning process. Consideration should be given to public safety, congestion, noise volume, safe access and egress, and timely emergency service response. Water supply to the area was also discussed. It was noted that Sussex County needs to work closely with the Delaware Department of Transportation to make Route 1 not only economically successful, but safe for everyone to use.

Suggestions from the floor included (1) the formation of a Citizens Advisory Committee to work together with the County and its consultant, Whitman, Requardt & Associates, in updating the Comprehensive Land Use Plan, and (2) monitoring the types of businesses permitted along Route 1.

Mr. Dennis Haskins of Whitman, Requardt & Associates was present and advised that they are working with the cities and towns throughout Sussex County to coordinate all planning efforts in the incorporation of the Western Land Use Plan and Coastal Sussex Land Use Plan into one comprehensive document.

Moratorium (Continued) It was the consensus of Council that this matter be taken under advisement.

M 373 94 Recess At 12:20 p.m., a Motion was made by Mr. Cole, seconded by Mr. Collins, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Dukes called Council back into session at 1:32 p.m.

Public Hearing (C/U No. 1084) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTOMOTIVE REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS" (Conditional Use No. 1084) filed on behalf of David A. and Patricia Tucker. The Public Hearing was closed.

M 374 94 Adopt Ordinance No. 982 (C/U No. 1084) A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to adopt Ordinance No. 982 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTOMOTIVE REPAIRS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS" (Conditional Use No. 1084) filed on behalf of David A. and Patricia Tucker, subject to the following conditions:

1. Hours of business shall be 8:00 a.m. to 5:00 p.m., six days per week.
2. No more than three vehicles shall be stored outside.
3. The site plan shall be subject to review and approval of the Planning and Zoning Commission.
4. Signage shall be limited to one 4' by 8' unlit sign on the premises.

Motion Adopted: 5 Yea.

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

Findings of Fact The Council found that the conditional use was appropriate legislative action based upon the following findings of fact:

1. The applicant established by substantial evidence that a community need will be served by the proposed use, without adverse impact on the character of the neighborhood, property values therein, traffic, or the environment in the area.

Findings
(Continued)

2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.

Public
Hearing
(C/U
No. 1085)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCK AND FARM EQUIPMENT REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS" (Conditional Use No. 1085) filed on behalf of Stanley Walker and Constance Walker. The Public Hearing was closed.

M 375 94
Adopt
Ordinance
No. 983
(C/U
No. 1085)

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to adopt Ordinance No. 983 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A TRUCK AND FARM EQUIPMENT REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00 ACRES, MORE OR LESS" (Conditional Use No. 1085) filed on behalf of Stanley Walker and Constance Walker, subject to the following conditions:

1. The preliminary site plan submitted to the Sussex County Council shall not be substantially amended in the site plan review process.
2. A total of no more than five vehicles or pieces of farm machinery shall be stored outside at any time.
3. Hours of operation shall be 7:00 a.m. to 7:00 p.m., six days per week.
4. Signage shall be limited to one unlit 4' by 8' sign on the premises.
5. The site plan shall be subject to final review and approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

Findings
of Fact

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

1. The applicant established by substantial evidence that a community need will be served by the proposed use, without adverse impact on the character of the neighborhood, property values therein, traffic, or the environment in the area.

Findings
(Continued)

2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.

M 376 94
Council-
manic
Grant

A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to give \$250.00 from Mr. Stevenson's Councilmanic Account to the Bridgeville Community Action Corporation to help purchase food for "Fun Day" at the Early Childhood Education Center in Bridgeville to be held on Saturday, September 3, 1994.

Motion Adopted: 5 Yea.

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

M 377 94
Council-
manic
Grant

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to give \$200.00 from Mr. Dukes' Councilmanic Account to New England Fellowship for Rehabilitation Alternatives to assist in the operation of their thrift store, "Keepers."

Motion Adopted: 5 Yea.

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

M 378 94
Council-
manic
Grant

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to give \$500.00 from Mr. Dukes' Councilmanic Account to the Laurel Pop Warner Association for general operations.

Motion Adopted: 5 Yea.

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

M 379 94
Adjourn

A Motion was made by Mr. Benson, seconded by Mr. Collins, to adjourn at 1:59 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Susan W. Webb

Susan W. Webb
Acting Clerk of the County Council