

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 15, 1992

Executive Session An Executive Session of the Sussex County Council was held on Tuesday, September 15, 1992, at 9:30 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware, for the purpose of discussing pending litigation. The Executive Session concluded at 9:50 a.m.

Call to Order The regular meeting of the Sussex County Council was held Tuesday, September 15, 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 392 92 Approve Minutes A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to approve the minutes of the previous meeting dated September 8, 1992. Motion Adopted by Voice Vote.

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

DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DIVISION OF AIR AND WASTE MANAGEMENT, UNDERGROUND STORAGE TANK BRANCH, NEW CASTLE

RE: September 1992 newsletter entitled "Think Tank".

DELMARVA WATER TRANSPORT COMMITTEE, SALISBURY, MARYLAND

RE: August/September 1992 newsletter.

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW JERSEY

RE: Notice of Commission Meeting and Public Hearing

DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DIVISION OF AIR AND WASTE MANAGEMENT, DOVER

RE: Notices of Public Hearings.

Proposed Ordinance Mr. Dukes introduced Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, THE ZONING ORDINANCE, TO PROVIDE FOR CIRCUS, CARNIVAL GROUNDS, AMUSEMENT PARK, OR MIDWAY, PERMANENT OR TEMPORARY FOR A SPECIFIED TIME PERIOD AS A CONDITIONAL USE IN CERTAIN ZONING DISTRICTS, AND TO PROVIDE FOR TENTS FOR SPECIAL PURPOSES AS SPECIAL USE EXCEPTIONS IN CERTAIN ZONING DISTRICTS". The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Cole introduced Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY RELATING TO THE ESTABLISHMENT OF AGRICULTURAL USE PROTECTIONS". The Proposed Ordinance will be advertised for Public Hearing.

Route 13 Sewer Planning Study Mr. Stickels, County Administrator, and Mr. Archut, Planning and Permits Division Director, discussed a proposed Scope of Work for a sanitary sewer planning study for the western portion of Sussex County. The proposed study area includes the Nanticoke River drainage area which includes the Route 13 corridor. The proposed study would provide a sewer master plan for the area, identifying areas where central sewer should be provided as development increases and areas where on-site systems will accommodate the wastewater needs. The proposed cost of this study is \$250,000; \$150,000 to be funded by the State and \$100,000 to be funded by the County. To obtain funding from the State, Mr. Stickels advised that an application must be filed with the Delaware Development Office no later than September 21, 1992.

M 393 92 Authorize Application to DDO A Motion was made by Mr. Collins, seconded by Mr. Stevenson, that the Sussex County Council authorizes the Sussex County Administrator to submit an application to the Delaware Development Office in the amount of \$150,000 to assist in the funding of the Route 13 Sewer Planning Study.

Motion Adopted: 5 Yea.

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

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

1. Sussex County Volunteer Firemen's Association Monthly Meeting

The Sussex County Volunteer Firemen's Association monthly meeting is scheduled for Tuesday evening, September 22, 1992, at 7:30 p.m. at the Roxana Fire Company, Roxana, Delaware.

2. Senior Citizens County Government Day

Senior citizens from CHEER and senior centers throughout the County will be invited to participate in the annual Senior Citizens County Government Day on Monday, October 26, 1992. Activities will start at 9:45 a.m. and will include an explanation and overview of County Government, a mock County Council session, and a tour of the Court-house facility.

Adminis-
trator's
Report
(con't)

3. Inland Bays Tour

The tour of the inland bays which was scheduled for August and was canceled has been rescheduled for Tuesday, September 22, 1992. Included with the Administrator's Report was a copy of the locations, items, and issues that will be looked at during the day. It is anticipated that the group will leave from Short's Marina on Route 24 at approximately 11:30 a.m.

C/U
No. 1016

Conditional Use No. 1016, filed on behalf of Jefferson Learning Foundation, was discussed. A Public Hearing was held on September 1, 1992, at which time the Public Hearing was closed and action was deferred.

M 394 92
Adopt
Ordinance
No. 854

A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adopt Ordinance No. 854 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR AN INDEPENDENT SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 40,651 SQUARE FEET, MORE OR LESS" (C/U #1016) filed on behalf of Jefferson Learning Foundation, with the following stipulations:

1. The use shall be limited to one year from the date of this approval.
2. The use is designated as an independent school with administrative offices.
3. Hours of operation shall be 8:00 a.m. to 5:00 p.m., Monday through Friday.
4. Classes shall be pre-kindergarten through fourth grade only.
5. No more than fourteen students shall attend the school.
6. The applicant shall comply at its expense with any DelDOT signage requirements.

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 clear immediate need exists to locate a planned private

Findings
of Fact
(con't)

kindergarten school with related activities at this site to open in September, 1992.

2. The applicant established by substantial evidence that the proposed use will have no adverse impact on the character of the neighborhood, since the use will be for one year only, no impact on property values, and no impact on traffic or the environment in the area.
3. The proposed use is not inconsistent with the purposes and goals of the Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

C/U
No. 1002

Conditional Use No. 1002, filed on behalf of Gerlinde Voegele, was discussed. A Public Hearing was held on June 16, 1992, at which time the Public Hearing was closed and action was deferred.

M 395 92
Adopt
Ordinance
No. 855

A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to Adopt Ordinance No. 855 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR USE OF PROPERTY FOR OUTDOOR YARD SALES ON WEEKENDS, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 2.71 ACRES, MORE OR LESS" (C/U #1002) filed on behalf of Gerlinde Voegele, with the following stipulations:

1. The motor homes, presently on-site for storage, be removed from the site.
2. Ingress/egress to the site shall be from Sussex Avenue.
3. No parking shall be permitted along Route 13. "No Parking" signs shall be placed along Route 13 at the site if required by DelDOT.
4. One unlighted ground sign, not exceeding 32 square feet per side or facing, may be permitted.
5. All display of items for sale shall conform to required building setbacks.
6. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission.
7. Sale to take place only Friday, Saturday, and Sunday.
8. No tables are to be rented to other individuals.

M 395 92
(con't)

9. All tables must be removed from site by close of business on Sunday.
10. Ample off-street parking shall be provided, per site plan approved by Commission.
11. Conditional Use shall expire one year from approval if building is not constructed.

Motion Adopted: 4 Yea; 1 Nay.

Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Nay;
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 the proposed use will permit her to enlarge her rapidly growing business and that the proposed use will cause no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.
2. The interests of the applicant will be protected by the eleven conditions imposed on this approval.
3. The proposed use is consistent with the purposes and goals of the Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

C/U
No. 1011

Conditional Use No. 1011, filed on behalf of Steven C. Cannon, was discussed. A Public Hearing was held on July 14, 1992, at which time the Public Hearing was closed and action was deferred.

M 396 92
Adopt
Ordinance
No. 856

A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to Adopt Ordinance No. 856 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR POOL AND SPA SERVICE, SALES AND SUPPLIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS" (C/U #1011) filed on behalf of Steven C. Cannon, with the following stipulations:

1. All outside material storage and equipment storage, parking of commercial vehicles and employee vehicles shall be within the impound created by stockade fencing.

M 396 92
(con't)

2. One unlighted sign, not exceeding six square feet per side or facing, as suggested by the applicant, shall be permitted.
3. The lot and accessory structures shall maintain a residential appearance.
4. One addition, not to exceed an area large enough to store two vehicles, shall be permitted.
5. All chemicals shall be stored in an environmentally safe area inside the shop building.
6. Access to the property shall be from Route 46.
7. Hours of operation shall be Monday through Saturday, 9:00 a.m. to 5:00 p.m.
8. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 3 Yea; 1 Nay; 1 Abstention.

Vote by Roll Call: Mr. Benson, Nay; Mr. Cole, Abstained;
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 clear need exists to expand and develop his existing business.
2. The applicant established by substantial evidence that the proposed use will have no adverse impact on the neighborhood, property values therein, traffic, or the environment in the area. Neighbors' concerns will be protected by the conditions imposed upon this approval.
3. The proposed use is consistent with the goals and purposes of the Comprehensive Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 397 92
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Collins, to give \$250.00 from Mr. Cole's Councilmanic Account to Roxana Cheer Senior Center to help fund the purchase of a camcorder and a record player for the senior center.

Motion Adopted: 5 Yea.

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M 397 92 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

M 398 92 A Motion was made by Mr. Collins, seconded by Mr. Cole, to give
Council- \$500.00 from Mr. Dukes' Councilmanic Account to the Laurel Pop
manic Warner Football League to help with operational expenses such as
Grant insurance, busing, uniforms, etc.

Motion Adopted: 5 Yea.

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

Prison Kay Wood Bailey, Administrator, Prison Arts Program, was present
Arts to request funding for a historical mural to be created and
Program displayed in the Town of Georgetown's Town Hall. The total cost
Request of the project is \$600.00; \$100.00 of this amount will be funded
by the Town of Georgetown.

M 399 92 A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to
Grant give \$500.00 from the Grant Program to the Prison Arts Program
for a historical mural to be created and displayed in the Town
of Georgetown's Town Hall.

Motion Adopted: 5 Yea.

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

M 400 92 A Motion was made by Mr. Collins, seconded by Mr. Cole, that the
Executive Sussex County Council authorizes an Executive Session to be held
Session on Tuesday, September 22, 1992, at 9:30 a.m., in the Sussex County
Council Chambers, for the purpose of discussing pending litigation.

Motion Adopted: 5 Yea.

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

M 401 92 At 11:30 a.m., a Motion was made by Mr. Stevenson, seconded by Mr.
Recess Cole, 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.

M 397 92 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

M 398 92 A Motion was made by Mr. Collins, seconded by Mr. Cole, to give
Council- \$500.00 from Mr. Dukes' Councilmanic Account to the Laurel Pop
manic Warner Football League to help with operational expenses such as
Grant insurance, busing, uniforms, etc.

Motion Adopted: 5 Yea.

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

Prison Kay Wood Bailey, Administrator, Prison Arts Program, was present
Arts to request funding for a historical mural to be created and
Program displayed in the Town of Georgetown's Town Hall. The total cost
Request of the project is \$600.00; \$100.00 of this amount will be funded
by the Town of Georgetown.

M 399 92 A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to
Council- give \$500.00 from the Human Service Grant Program to the Prison
manic Arts Program for a historical mural to be created and displayed
Grant in the Town of Georgetown's Town Hall.

Motion Adopted: 5 Yea.

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

M 400 92 A Motion was made by Mr. Collins, seconded by Mr. Cole, that the
Executive Sussex County Council authorizes an Executive Session to be held
Session on Tuesday, September 22, 1992, at 9:30 a.m., in the Sussex County
Council Chambers, for the purpose of discussing pending litigation.

Motion Adopted: 5 Yea.

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

M 401 92 At 11:30 a.m., a Motion was made by Mr. Stevenson, seconded by Mr.
Recess Cole, 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 C/U No. 1015 A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXTENSION AND EXPANSION TO CONDITIONAL USE NO. 786 FOR AN AUTO RECYCLING CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" (C/U #1015) filed on behalf of Joe C. and Toni Johnson, T/A Bridgeville Auto Center.

M 402 92 Require Environmental Assessment C/U No. 1015 A Motion was made by Mr. Cole, seconded by Mr. Benson, that before any action is taken on the application denominated C/U #1015, the site shall be tested for potential contamination by either a state agency or an independent agency and the applicant is to have the report submitted to the County, in writing.

Motion Adopted: 4 Yea; 1 Nay.

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

The Public Hearing was closed and the record was left open to allow time for the environmental assessment and for public response to the assessment.

Recess President Dukes declared a recess at 3:25 p.m.

Reconvene President Dukes called Council back into session at 3:32 p.m.

Public Hearing C/Z No. 1171 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 GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 30.54 ACRES, MORE OR LESS" (C/Z #1171) filed on behalf of Jack Mears, Jack Reynolds, and Bruce Moore. The Public Hearing was closed and action was deferred to allow time for clarification of DNREC's comments.

M 403 92 Councilmanic Grant A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to give \$600.00, \$300.00 from Mr. Stevenson's Councilmanic Account and \$300.00 from Mr. Benson's Councilmanic Account, to the Carlisle Fire Company, Inc., to help fund the purchase of a Simon-LTI Model QH-110 Rear-Mount Aerial Fire Apparatus.

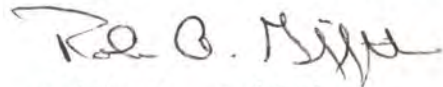
Motion Adopted: 5 Yea.

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

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M 404 92 A Motion was made by Mr. Benson, seconded by Mr. Collins, to
Adjourn adjourn at 4:20 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council