

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 19, 1995

Call to Order The regular meeting of the Sussex County Council was held Tuesday, September 19, 1995, 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 414 95 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to
Approve approve the minutes of the previous meeting dated September 12,
Minutes 1995. Motion Adopted by Voice Vote.

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

LAUREL ADULT DAY CARE, LAUREL, DELAWARE.

RE: Invitation to an Open House on September 22, 1995, from 9:00 a.m. to 2:00 p.m.

JOYCE COFIELD, ADMINISTRATOR, AND BEN COTTRELL, PRESIDENT, DELMARVA WATER TRANSPORT COMMITTEE, INC., SALISBURY, MARYLAND.

RE: Invitation to attend the next Delmarva Water Transport Committee General Membership Meeting, which will be held aboard the riverboat "The Maryland Lady" on Friday, October 6, 1995, beginning at 11:30 a.m.

Trans- Mr. Stickels, County Administrator; Mr. Reeb, representative
portation for the Delaware Department of Transportation; and Mr. Gimpel
Planning of Parsons, Brinckerhoff Quade & Douglas, Inc. (a consulting
Advisory firm engaged by the State), discussed the "Memorandum of
Committee Understanding Relating to the Comprehensive, Continuing, and
Cooperative Transportation Planning and Programming Process"
between the Delaware Department of Transportation and the
Sussex County Council. The Memorandum provides for the
formation of a Transportation Planning Advisory Committee
that will assist in coordination of planning issues associated
with the preparation of the Statewide Transportation Plan and
the County Comprehensive Plan and will serve as a general voice
for public opinion on transportation planning. Mr. Stickels
reviewed the composition of the TPAC, as follows:

Agricultural Business (2 members)	Donald Ralph Alden Hopkins
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Environmental Groups (2 members)	Larry Wonderlin Bill Watt
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Advisory Committee (con't)	Tourist Industry (1 member)	Cindy Small
	Civic Associations (3 members)	Charlotte Cannon Gertrude Royal Mary Jane Lindblad
	Chamber of Commerce (1 member)	George Beauchamp
	Shippers (1 member)	Jack Carpenter
	Truckers (1 member)	Reed Trucking Representative
	Delaware River & Bay Authority (1 member)	To be Named by Delaware River & Bay Authority
	Rail/Short Line (1 member)	Eric Callaway
	Sussex County Association of Towns (2 members)	George Smith George Volenik
	Sussex County Economic Development (1 member)	Frank Calio
	Public Safety (1 member)	To be Named by Sussex County Volunteer Firemen's Assoc.
	Sussex County Planning & Zoning (Resource People)	Lawrence Lank
	Department of Transportation (Resource People)	DelDOT Office of Planning

Mr. Stickels noted that the Committee was put together based on his meetings with the Governor's office and the Delaware Department of Transportation. The first meeting of this Committee will be held within the next two weeks.

M 415 95 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to Approve Members of TPAC approve the membership of the Transportation Planning Advisory Committee, as recommended.

Motion Adopted: 5 Yea.

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

DelDOT Capital Improvement Plan Report Mr. Stickels, County Administrator, reported on the Public Hearing held on September 14, 1995, at Delaware Tech's Georgetown Campus Auditorium. The Public Hearing was one of three Public Hearings that will be held throughout the State to solicit input in the preparation of DelDOT's Capital Improvement Program beginning Fiscal Year 1997. Mr. Stickels reported that \$244.6

Report
(con't)

Million has been allocated for New Castle County for a total of 52 projects; \$22.3 Million has been allocated for Kent County for a total of 17 projects; and \$12.3 Million has been allocated for Sussex County for a total of 17 projects. These projects are scheduled during the time period of FY '95 - FY '2001. Mr. Stickels distributed information regarding the projects proposed for Sussex County, as follows:

1. BR150N ON SR 1 OVER CANAL, SIDEWALK
2. BR161 ON S 28A OVER BROAD CREEK, POPLAR STREET
3. BR164 ON SR 36 (S 36) OVER CEDAR CREEK, SLAUGHTER BEACH
4. BR253N/S AND BR254N/S ON US 13 OVER NANTICOKE RIVER, SEAFORD
5. BR257, TULL'S CROSSING, SEAFORD
6. BR491 ON S394A OVER PERCH CREEK DITCH
7. LEWES SWING BRIDGE OVER LEWES/REHOBOTH CANAL
8. S 5, US 13 TO US 13
9. S331, S334 TO MILLSBORO TOWN LIMITS (S339)
10. SUSSEX COUNTY AIRPORT RUNWAY
11. US 9, SR 20 TO US113
12. SR 26, ASSAWOMAN CANAL TO SR1, BETHANY BEACH
13. SR 54 (S 58), S 58C TO SR 1, WEST OF FENWICK ISLAND
14. S 84 AND S349A, OCEAN VIEW INTERSECTION IMPROVEMENT
15. SUSSEX COUNTY AIRPORT - TAXIWAY LIGHTS AND GUIDANCE SIGNS
16. SUSSEX CORRIDOR IMPROVEMENTS, SR404A
17. SUSSEX COUNTY AIRPORT TAXIWAY
 - A. RUNWAY WIDENING
 - B. PERIMETER ACCESS ROAD

Mr. Stickels noted that, under the current plan, there are no projects planned in Sussex County after FY '98. It was the consensus of Council that the Delaware Department of Transportation be advised that the Sussex County Council is asking for more consideration in respect to Sussex County getting its fair share of projects included in the Capital Improvement Program.

M 416 95 Councilmanic Grant A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to give \$120.00 (\$30.00 from Mr. Benson's, Mr. Collins', Mr. Dukes' and Mr. Stevenson's Councilmanic Accounts) to the Sussex County Coon Hunters Association for the purchase of trophy cups.

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 in his County Administrator's Report:

1. Troop 4 Status Report - Month of August

The following hours of duty and enforcement were compiled by the uniformed patrol officers at Troop 4, Georgetown, Delaware, during the month of August 1995:

Total Hours on Duty	3,382
Hours Assisted Other Agencies	57
Total Traffic Arrests	918
Total DUI Arrests	32
Accident Reports: Property Damage	51
Personal Injury	<u>14</u>
Total Accident Reports	65
Criminal Arrests: Felony	26
Misdemeanor	<u>73</u>
Total Criminal Arrests	99
Total 10-29 P's (wanted persons)	12
Total Number of Complaints	606

2. Mitchell v. Sussex County, Court of Chancery

On Wednesday, September 13, 1995, Vice Chancellor Balick of the Delaware Court of Chancery conducted a telephone conference between the various attorneys involved in the litigation regarding County Seat Materials LLC asphalt plant at the Sussex County Airport/Industrial Park. Issues involved in the conference call included a Motion to Dismiss filed by County Seat Materials LLC and the County Council.

After listening to oral argument from both sides, Vice Chancellor Balick dismissed most of the claims filed by the Plaintiffs. With respect to the claim that the proposed asphalt plan should have been subject to County zoning, the Vice Chancellor held that he did not have jurisdiction to consider this question, since the issue is already in front of Superior Court.

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(con't)

With respect to the allegation that the asphalt plant was a nuisance, the Vice Chancellor held that such a claim was premature.

With respect to the argument that the arrangement by which a royalty is to be paid to Sussex County by County Seat Materials LLC as part of the rent, the Court found that such an arrangement was not unconstitutional.

The only claim made by the Plaintiffs that was not dismissed by the Court was the allegation that Delaware's Freedom of Information Act was violated. Vice Chancellor Balick held that it was premature to address that claim, and the claim must proceed to court. The attorneys are in the process now of determining whether this issue should be pursued at this time or wait until Superior Court has made a decision regarding the zoning.

Agenda
Items

The agenda items entitled "West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; Construction Package B - Change Order No. 6 and Construction Package E - Change Order No. 1" were tabled.

Old
Business
(C/Z
No. 1234)

Change of Zone No. 1234 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 11.45 ACRES, MORE OR LESS" filed on behalf of Richard Piper, was discussed. A Public Hearing was held on this application on August 2, 1994, at which time the Public Hearing was closed and action was deferred. It was noted that the Planning and Zoning Commission held a Public Hearing on this application on July 14, 1994. To date, no action has been taken by the Commission.

M 417 95
Adopt
Proposed
Ordinance
(C/Z
No. 1234)

A Motion was made by Mr. Cole, seconded by Mr. Benson, 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 GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 11.45 ACRES, MORE OR LESS" (Change of Zone No. 1234) filed on behalf of Richard Piper.

Motion Denied: 5 Nay.

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

Old Business (C/U No. 1081) Conditional Use No. 1081 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MANUFACTURED HOME PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 11.45 ACRES, MORE OR LESS", filed on behalf of Richard Piper, was discussed. A Public Hearing was held on this application on August 2, 1994, at which time the Public Hearing was closed and action was deferred. It was noted that the Planning and Zoning Commission held a Public Hearing on this application on July 14, 1994. To date, no action has been taken by the Commission.

M 418 95 Adopt Ordinance No. 1051 (C/U No. 1081) A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adopt Ordinance No. 1051 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MANUFACTURED HOME PARK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 11.45 ACRES, MORE OR LESS" (Conditional Use No. 1081) filed on behalf of Richard Piper, with the following conditions:

1. The maximum number of lots shall not exceed 23. The lots are established for lease only, not for sale.
2. A central community wastewater facility system shall be installed to serve the community per the specifications and approval of the State Department of Natural Resources and Environmental Control.
3. A central water system shall be installed per specifications of all appropriate agencies, including the Office of the State Fire Marshal for fire protection, if appropriate.
4. The site plan, which shall include a recreation area, shall be subject to review and approval of the Planning and Zoning Commission.
5. The streets shall be built to the standards and specifications of the Subdivision Ordinance.
6. A six foot high chain link type fencing shall be installed along all side and rear property lines.
7. Two community dumpsters shall be placed in the park. Trash shall be removed weekly.
8. All manufactured homes, existing and proposed, shall acquire all appropriate agency building and/or placement permits.

Motion Adopted: 5 Yea.

M 418 95 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

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

1. The applicant established by substantial evidence that the conditional use permit is necessary to bring the property into conformity with the Comprehensive Zoning Ordinance.
2. The property meets a growing need for affordable housing in the area. With the stipulations, there will be no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.
3. Although the Planning and Zoning Commission made no recommendation, its findings of fact are incorporated herein.

Rural Mr. Norwood and Ms. George of the Assessment Office were in
Road attendance to discuss the status of Sussex County's Rural
Naming and Readdressing Project. A list of proposed
and road names, in numerical and alphabetical order, was dis-
Readdress- tributed to Council for review. A Public Hearing will be
sing held on Wednesday, September 20, 1995, at 7:30 p.m., in the
Project Theater of Delaware Technical & Community College, Jack F.
Owens Campus, Georgetown. The purpose of this hearing is
to allow for final public input on the names of roads in
rural Sussex County. Upon receipt of the final suggestions,
a list will be compiled of recommendations for the Sussex
County Council to adopt as road names for rural Sussex
County. Once the names are in place, numbers will be
assigned to each property, a process that will take
approximately eighteen months.

Proposed Mr. Cole introduced the Proposed Ordinance entitled "AN
Ordinance ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM
DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING
STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF
LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX
COUNTY, CONTAINING 7,500 SQUARE FEET, MORE OR LESS" (Condi-
tional Use No. 1136) filed on behalf of Nicholas DelCampo
and Mary Zimmerman. The Proposed Ordinance will be adver-
tised 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
AN AR-1/RPC AGRICULTURAL RESIDENTIAL/RESIDENTIAL PLANNED

Proposed Ordinance (con't) COMMUNITY DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 60.00 ACRES, MORE OR LESS" (Change of Zone No. 1266) filed on behalf of R.D.M. Inc. The Proposed Ordinance will be advertised for Public Hearing.

M 419 95 Councilmanic Grant A Motion was made by Mr. Benson, seconded by Mr. Collins, to give \$500.00 from Mr. Benson's Councilmanic Account to the Milton Parks and Recreation Department's Soccer Program for basic supplies and services.

Motion Adopted: 5 Yea.

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

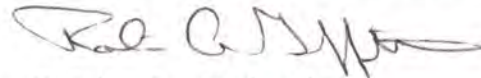
M 420 95 Councilmanic Grant A Motion was made by Mr. Collins, seconded by Mr. Benson, to give \$500.00 from Mr. Collins' Councilmanic Account to the Frankford Town Council for the water treatment plant and system.

Motion Adopted: 5 Yea.

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

M 421 95 Adjourn A Motion was made by Mr. Benson, seconded by Mr. Collins, to adjourn at 11:20 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council