

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 26, 1995

Call to Order The regular meeting of the Sussex County Council was held Tuesday, September 26, 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 422 95 A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to approve the minutes of the previous meeting dated September 19, 1995. Motion Adopted by Voice Vote.

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

COLONEL CLIFFORD M. GRAVIET, CHAIRMAN, DELAWARE POLICE CHIEFS' COUNCIL, INC., DOVER, DELAWARE.

RE: Letter soliciting funds for Mr. Martin Johnson, Local Police Coordinator, to attend a meeting of the Committee of Executive Directors at the International Association of Chiefs of Police Annual Conference in Miami, Florida, October 14-19, 1995.

SCOTT COULBOURN, SEAFORD PARKS & RECREATION, CITY OF SEAFORD, SEAFORD, DELAWARE.

RE: Letter to Mr. Dukes in appreciation of his Councilmanic Grant for the Seaford Little League Football program.

Rural Mr. Norwood and Ms. George of the Assessment Office were in
Road attendance to update the Council on the County's Rural Road
Naming Naming and Readdressing Project. A Public Hearing was held
and on Wednesday, September 20, 1995, at which time final public
Re- input was heard. The record was left open until Friday,
address- October 6, 1995. It was noted that further changes to pro-
ing posed road names will be made for the purpose of solving
Project controversial issues only. Once all issues have been re-
 solved, a final list will be compiled and submitted to the
 Sussex County Council for adoption. Mr. Dukes requested
 that maps of each Councilmanic District be prepared; the
 maps should display the proposed road names. Mr. Norwood
 recommended that once the road names have been adopted,
 a moratorium on road name changes be put in place for
 approximately one to two years.

Rural
Develop-
ment
Reform
Act of
1995

Mr. Stickels, County Administrator, advised Council of the Rural Development Reform Act of 1995 which could go into effect starting October 1, 1996. This Act would reduce the County Council's ability to obtain Federal funding. An important benefit within the existing federally funded system, Rural Economic and Community Development Block Grants, is it's pooling ability. It allows projects to be funded which exceed the State Allocation through national pooling of loan and grant funds. The Rural Development Reform Act of 1995 would not provide for this pooling ability. In addition, the proposed plan would reduce funding for administrative purposes. Mr. Stickels read, for Council's consideration, a Proposed Resolution entitled "OPPOSING THE RURAL DEVELOPMENT REFORM ACT OF 1995".

M 423 95
Adopt
Resolu-
tion No.
R 015 95

A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Resolution No. R 015 95 entitled "OPPOSING THE RURAL DEVELOPMENT REFORM ACT OF 1995".

Motion Adopted: 4 Yea, 1 Abstention.

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

Adminis-
trator's
Report

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

1. Council Meeting

The County Council will hold its regularly scheduled meeting on October 24, 1995, at the Indian River Fire Company, Route 5, Oak Orchard, Sussex County, Delaware. This will be the fifth in a series of holding Council meetings in each Councilmanic District. The purpose of rotating the meeting is to allow the Council to become accessible and familiar with particular issues in each district. Sufficient time will be allotted in the meeting to allow for public comments.

2. Returned Check Policy

Recently, the County has received a number of returned checks from Building Code and building permit customers. Effective October 1, 1995, the County Government will start charging \$20 per returned check for any fees, taxes, or other receipts due to the County that have been paid for by a check with insufficient funds. Additionally, any permits that have been issued will be revoked until the correction has been made. The purpose of this charge is to cover the additional expense of tracking a returned check provider and obtaining the appropriate fees.

Adminis-
trator's
Report
(con't)

3. West Rehoboth Sewer

This morning, September 26, 1995, the Sussex County Council received a check for \$6,000,000 from the United States Rural Economic & Community Development agency. This check represents the fourth loan closing from this agency for the West Rehoboth Sewer Project. Currently, the County has received \$26,224,000 from the United States Government for the West Rehoboth Project. These loans are for 40 years and interest is charged at only 4 1/2 percent. A total of \$39,223,000 is authorized for these long term, low-interest loans. This loan closing enabled the County Council to reduce the capitalization fee by 75 percent. The County's next Rural Economic & Community Development loan closing is planned for December, 1995.

4. Route 1 Traffic Concern

On Tuesday, October 3, 1995, Secretary of Transportation Anne Canby will attend the Council meeting and review the ten concerns developed by the Route 1 Working Group.

Proposed
Beaver
Dam
Heights
SLD

Mr. Izzo, Director of Public Works, discussed the Proposed Beaver Dam Heights Streetlighting District. The location of the street lights and the proposed billing rates were discussed. Mr. Izzo reviewed a Proposed Resolution establishing the date, time and place of a referendum regarding the Proposed Streetlighting District.

M 424 95
Approve
Estimated
Annual
Billing
Rate
for
Proposed
Beaver
Dam
Heights
Street
Lighting
District

A Motion was made by Mr. Benson, seconded by Mr. Collins, based on the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves an estimated annual billing rate of \$45.41 per residential or commercial improvement within the Beaver Dam Heights, Sections I and II, Streetlighting District, Seaford Hundred, which shall be increased during the first billing period by an estimated \$17.81 to accommodate necessary tree trimming; and further, that said billing rate shall be adjusted each year thereafter based upon the number of assessable units and power costs.

Motion Adopted: 5 Yea.

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

M 425 95
Adopt
Resolu-
tion No.
R 016 95

A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Resolution No. R 016 95 entitled "A RESOLUTION ESTABLISHING THE DATE, TIME AND PLACE OF A REFERENDUM TO BE HELD TO CONSIDER THE QUESTION OF ESTABLISHING THE PROPOSED BEAVER DAM HEIGHTS, SECTIONS I & II, STREETLIGHTING DISTRICT".

M 425 95 Motion Adopted: 5 Yea.
(con't)

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

Proposed Blades Sanitary Sewer District Boundary Extension Mr. Archut, Director of Planning and Permits, discussed a request from David E. Webb, Jr. and Norman E. Hastings, that the Blades Sanitary Sewer District Boundary be extended to include their properties. It was noted that these properties have been annexed by the Town of Blades. Mr. Archut requested permission to prepare and post notices regarding this extension.

M 426 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, Prepare and Post Notices for Proposed Blades SSD Extension that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Blades Sanitary Sewer District Boundary to include properties owned by David E. Webb, Jr. and Norman E. Hastings, as presented on September 26, 1995.

Motion Adopted: 5 Yea.

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

Old Business Change of Zone No. 1261 Change of Zone No. 1261 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.0441 ACRES, MORE OR LESS" filed on behalf of Tunnell Companies, L.P. was discussed. A Public Hearing was held on this application on August 1, 1995, at which time the Public Hearing was closed. The vote on this application was never completed.

M 427 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Ordinance No. 1052 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.0441 ACRES, MORE OR LESS" (Change of Zone No. 1261) filed on behalf of Tunnell Companies, L.P.

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

Old Business Change of Zone No. 1262 Change of Zone No. 1262 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.1884 ACRES, MORE OR LESS" filed on behalf of Tunnell Companies, L.P. was discussed. A Public Hearing was held on this application on August 1, 1995, at which time the Public Hearing was closed and action was deferred.

M 428 95 Adopt Ordinance No. 1053 (C/Z No. 1262) A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Ordinance No. 1053 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.1884 ACRES, MORE OR LESS" (Change of Zone No. 1262) filed on behalf of Tunnell Companies, L.P.

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

Old Business (Conditional Use No. 1124) Conditional Use No. 1124 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MANUFACTURED HOME PARK (EXPANSION TO CONDITIONAL USE NO. 1034) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.1884 ACRES, MORE OR LESS" filed on behalf of Tunnell Companies, L.P. was discussed. A Public Hearing was held on this application on August 1, 1995, at which time the Public Hearing was closed and action was deferred.

M 429 95 Adopt Ordinance No. 1054 (C/U No. 1124) A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Ordinance No. 1054 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MANUFACTURED HOME PARK (EXPANSION TO CONDITIONAL USE NO. 1034) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.1884 ACRES, MORE OR LESS" (Conditional Use No. 1124) filed on behalf of Tunnell Companies, L.P.

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
for
Ordinance
Nos.
1052,
1053,
and
1054

Although separate Public Hearings were held on Change of Zone No. 1261, Change of Zone No. 1262, and Conditional Use No. 1124, the applications are inter-related and the findings of one application directly affects the subsequent applications and the appropriate use of the land under the Coastal Sussex Land Use Plan. The Council found that the rezonings are appropriate legislative action and are in accordance with the Coastal Sussex Land Use Plan, which designates the Long Neck area as a development zone or area, based on the following findings of fact:

- A. Change of Zone No. 1261 seeks rezoning of 3.0441 acres of land from AR-1 to B-1. Previously, the County had granted to this applicant, in conjunction with a project originally identified as The Greens, and now called Baywood, the approval of 6.82 acres in Change of Zone No. 1189 as C-1. The legislative findings in Change of Zone No. 1189 are incorporated into the findings of Change of Zone No. 1261, noting that the rezoning in Change of Zone No. 1261 seeks a less intensive zoning classification than the release of commercial use previously approved in Change of Zone No. 1189, with respect to the lands sought to be down-zoned from AR-1 to C-1 in Change of Zone No. 1262.

In approving the rezoning in Change of Zone No. 1261, the County finds that the rezoning to business use is in accordance with the Coastal Land Use Plan in that:

1. The proposed commercial development is consistent with the predominant pattern of commercial development along Long Neck Road;
 2. Residential zoning with respect to the 3.0441 acres sought to be zoned B-1 is inappropriate because of its proximity to Long Neck Road under the redesign of the remaining portion of the project identified as Baywood, previously known as The Greens;
 3. The proposed commercial development would not result in a significant adverse effect on the surrounding area, nor would it adversely affect the availability of services, utilities, etc., in the area.
- B. The rezoning in Change of Zone No. 1261 from AR-1 to B-1 in concert with the downzoning of 3.1884 acres in Change of Zone No. 1262 from C-1 to AR-1, results in the lessening of business use property. The relocation of residential land in Change of Zone No. 1262 and Conditional Use No. 1164 is a compatible development of the entire project, with no increase in density than was approved by County Council in Change of Zone No. 1189 and Conditional Use No. 1034 on February 8, 1994.

Findings
of Fact
(con't)

- C. The County Council readopts the findings it made in Change of Zone No. 1189 and Conditional Use No. 1034, and incorporates same by reference, and finds that there has been no significant change in the area in question, and that the rezonings herein sought merely constitute a redesign of the project, which actually lessens the potential impact of the project on the community due to a net decrease of the size and scope of the business use property, with no increase in the overall residential density.
- D. The Developer/Applicant has agreed to restrictive covenants with respect to the B-1 zoning, which would insure against inappropriate business activities. Notwithstanding the fact that the County cannot request restrictions on the use, nevertheless, the Developer has voluntarily agreed with DelDOT to impose such use restrictions.
- E. The Developer has also agreed to engage in certain off-site improvements to the road system with DelDOT which will assist in lessening congestion in the streets.
- F. The proposed development will not adversely impact police protective services. The proposed development will not adversely impact fire protection. The Developer's proposal includes a water system for the new community which shall meet the regulations of the State Fire Marshal's Office.
- G. The possibility of increased traffic will be minimized by improvements to the roads in the immediate area of the project as recommended by DelDOT and as agreed to be made by Tunnell Companies, L.P.
- H. The proposed development will create new job opportunities in the area with respect to Change of Zone No. 1261.
- I. The downzoning in Change of Zone No. 1262 actually increases the amount of residential use spaces over commercial use space for the project; the allowance of mobile home development under Conditional Use No. 1162 for the lands previously zoned C-1 is compatible with the remaining conditional use lands previously approved by the County in Conditional Use No. 1034, which are contiguous. However, the reconfigured project authorized by County Council's approval of Change of Zone No. 1261, Change of Zone No. 1262 and Conditional Use No. 1124 does not increase the residential density above that previously approved.

M 430 95
Council-
manic
Grant

A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to give \$500.00, \$100.00 from each Councilmanic Account, to the Delaware Police Chiefs' Council, Inc. to provide partial reimbursement of expenses to permit Mr. Martin Johnson, Local

M 430 95 Police Coordinator, to attend a meeting of the Committee of
(con't) Executive Directors at the International Association of Chiefs
of Police Annual Conference.

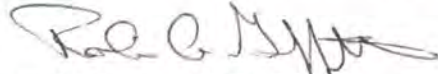
Motion Adopted: 5 Yea.

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

Request from Laurel Lions Club Mr. Dukes advised Council of a letter from the Laurel Lions Club asking that October 13 and 14, 1995, be proclaimed Lions Candy Days in Sussex County. In addition, the Laurel Lions Club is requesting a donation from the Council for the Lions Vision Research Foundation.

M 431 95 A Motion was made by Mr. Cole, seconded by Mr. Benson, to
Adjourn adjourn at 11:30 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council