

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 27, 1994

Call to Order The regular meeting of the Sussex County Council was held Tuesday, September 27, 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 402 94 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to  
Approve approve the minutes of the previous meeting dated September 20,  
Minutes 1994. Motion Adopted by Voice Vote.

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

S. LEE FRANKEL, JR., DISTRICT MANAGER, DELMARVA POWER, MILLSBORO, DELAWARE.

RE: Delmarva Power's plan to upgrade its electric facilities in Eastern Sussex and the beach areas.

LANCE FLEETWOOD, AMBULANCE CAPTAIN, BLADES VOLUNTEER FIRE COMPANY, BLADES, DELAWARE.

RE: Letter to Mr. Dukes in appreciation of his Councilmanic Grant for new CPR training dummies.

MICHAEL MCGRATH, MANAGER, PLANNING, PROMOTION & MARKETING, STATE OF DELAWARE, DEPARTMENT OF AGRICULTURE, DOVER, DELAWARE.

RE: Letter to Mr. Dukes advising that, contrary to a series of articles in the News Journal concerning the Farmland Assessment Act, the Sussex County Assessment Office has enforced the Act properly.

MICHAEL HERHOLDT, DELAWARE COAST LINE RAILROAD COMPANY, LINCOLN, DELAWARE.

RE: An invitation to a special train ride on Friday, September 30, 1994; the last run for the Delaware Coast Line Railroad on state owned rail lines. Delaware Coast Line Railroad has lost its operating contract with the Delaware Rail Administration after twelve years of service.

PHYLLIS DAISEY, SECRETARY, GREATER MILLSBORO CHAMBER OF COMMERCE, MILLSBORO, DELAWARE.

RE: Letter to Mr. Collins in appreciation of his Councilmanic Grant for the Big Thursday event.

Corre- TONY SMITH, NATURAL POOLS SOFTBALL TEAM AND GEORGETOWN MENS  
spondence SOFTBALL LEAGUE, MILLSBORO, DELAWARE.  
(con't) RE: Letter in appreciation of Mr. Stevenson's Councilmanic  
Grant for attendance at Nationals.

BARBARA S. WARNELL, LEWES, DELAWARE.  
RE: Letter supporting the Southern Delaware Choral Society's  
classical music composition.

STUART YOUNG, WILMINGTON, DELAWARE.  
RE: Letter supporting the Southern Delaware Choral Society's  
classical music composition.

PEGGY AMSTERDAM, STATE OF DELAWARE, DIVISION OF THE ARTS,  
WILMINGTON, DELAWARE.  
RE: Letter supporting the Southern Delaware Choral Society's  
classical music composition.

C-Con Mr. Stickels, County Administrator, discussed a request from  
Develop- A. P. Croll III, C-Con Development, Corp., that the County  
ment, Council consider an appeal to the decision of the Planning  
Corp. and Zoning Commission regarding the subdivision application  
Sub- of C-Con Development, Corp. On July 28, 1994, the Planning  
division and Zoning Commission denied this subdivision application  
Applica- due to safety concerns over the location of the entrance.  
tion Mr. Bayard, County Attorney, recommended that a Public  
Hearing be held regarding this matter.

M 403 94 A Motion was made by Mr. Collins, seconded by Mr. Benson,  
Schedule that a Public Hearing be scheduled for the appeal of the  
Public decision of the Planning and Zoning Commission to deny the  
Hearing subdivision application of C-Con Development, Corp.

C-Con Motion Adopted: 5 Yea.

Develop- Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
ment, Mr. Collins, Yea; Mr. Stevenson, Yea;  
Corp. Mr. Dukes, Yea

Literacy Mr. Stickels, County Administrator, advised Council that the  
Program County has been notified by the United States Department of  
Funding Education that the County's grant application, in the amount  
of \$35,000, for the Literacy Program will not be funded. The  
County's request for funding was denied due to the fact that  
the number of requests for assistance exceeded the amount  
of funds available. Due to the lack of this funding, budget  
adjustments to the County's budget will be required to be  
made; for this reason, Mr. Stickels recommended that the  
Family Literacy Program be discontinued. Mr. Stickels  
further recommended that \$2,600 be transferred, from within  
the current library budget, to continue the Adult Literacy  
Program. Council concurred with Mr. Stickels' recommendations.

Walker  
Mill  
Central  
Water  
System

Mr. Stickels, County Administrator, provided a status report regarding the construction scheduling of the central water system for Walker Mill Trailer Park. A Notice to Proceed with construction was issued on August 17, 1994. The contract time of 180 days will end on February 13, 1995. Tidewater Utilities started construction of pipe installation for the project on September 19, 1994. The project will be constructed in two phases. Phase I will extend a line to the Walker Mill Mobile Home Park and tie into the existing distribution system. This is scheduled to occur in October and will allow the contaminated wells to be taken off-line. Even though residents will be provided water by Tidewater Utilities, Inc., they will not incur charges for any water used prior to project completion.

1995  
County  
Holiday  
Schedule

Mr. Stickels, County Administrator, reviewed the proposed 1995 County Holiday Schedule, as follows:

<u>HOLIDAY</u>	<u>COUNTY OBSERVANCE</u>
New Year's Day	January 2, 1995
Martin Luther King, Jr.'s Birthday	January 16, 1995
Presidents' Day	February 20, 1995
Good Friday	April 14, 1995
Memorial Day	May 29, 1995
Independence Day	July 4, 1995
Labor Day	September 4, 1995
Columbus Day	October 9, 1995
Veterans' Day	November 10, 1995
Thanksgiving Day	November 23, 1995
Day After Thanksgiving	November 24, 1995
Christmas Day	December 25, 1995
Christmas Eve	December 26, 1995

M 404 94  
Adopt  
1995  
County  
Holiday  
Schedule

A Motion was made by Mr. Benson, seconded by Mr. Collins, authorizing the adoption of the 1995 County Holiday Schedule, as presented by the County Administrator.

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, discussed the following information in his County Administrator's Report:

1. B.A.S.S. Eastern Divisional Championship

Terry Algier of Greenwood won the individual competition and led Delaware to the team title in the B.A.S.S. Eastern

Adminis-  
trator's  
Report  
(con't)

Divisional Championship on Friday, September 23, 1994, on the Nanticoke River at Phillips Landing, Laurel, Delaware. Mr. Algier caught thirteen fish weighing twenty-three pounds, ten ounces, in the three-day competition. The Delaware team topped twelve other states and won \$18,000 for finishing in first place.

Mr. Stickels thanked the Economic Development Office for the excellent job they did in assisting with this prestigious fishing tournament.

Town of  
Selby-  
ville  
Request  
DSHA's  
Hickory  
Tree  
Project

Mr. Stickels, County Administrator, advised Council of a letter dated September 23, 1994, from the Mayor of the Town of Selbyville requesting that the Mayor and Council of the Town of Selbyville be permitted to provide sewer and water to the Delaware State Housing Authority's Hickory Tree Project. It was noted that, in accordance with an amendment to an Agreement between Sussex County Council and the Town of Selbyville relating to the discharge of treated sewage into the County's Ocean Outfall, the connection of fifty-seven units owned by the Delaware State Housing Authority to the Town of Selbyville's Wastewater Sewer Facility is allowed contingent on all other requirements contained in the Agreement being maintained. No action by Council was necessary.

Con-  
struction  
Package  
C  
West  
Rehoboth

Mr. Wood, County Engineer, and Mr. Small of George, Miles & Buhr, discussed the bid results for Construction Package C for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District which were reported to Council at the August 30, 1994, Council meeting. A review of the bid proposals revealed that the low bid of L. A. Merrell Construction Co. and the second low bid of Marquis Construction Co. included certain equipment other than that identified by the specifications in the bid documents and were not approved by George, Miles & Buhr as equals. These contractors were notified and requested to submit equipment specifications for the items other than those described in the specifications at the same bid price. Information submitted has been evaluated and deemed "not-approved equal" and "non-responsive". As a result, the third low bidder, Kuhn Construction, Inc., whose bid contained the equipment specified in the bid documents, was recommended for the award of the contract, contingent on subsequent review and approval.

M 405 94  
Award  
Con-  
struction  
Contract  
C

A Motion was made by Mr. Stevenson, seconded by Mr. Benson, that based on the recommendation of the Consulting Engineer, George, Miles & Buhr, and the County Engineering Department, that an award be made for West Rehoboth Construction Contract C to Kuhn Construction Company, in the amount of \$3,544,750 deemed to be the lowest responsible bidder, and contingent upon

M 405 94 review and approval of the contract bid documents by the  
(con't) Department of Natural Resources and Environmental Control,  
the Environmental Protection Agency, and Rural Development  
Administration.

Motion Adopted: 5 Yea.

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

Agenda Item The agenda item entitled "George, Miles & Buhr - Design  
Contract Change Order" was tabled.

Proposed Ordinance Mr. Collins 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  
M MARINE DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND  
BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 18.28  
ACRES, MORE OR LESS" (Change of Zone No. 1242) filed on behalf  
of Vines Creek Marina, L.P. The Proposed Ordinance will be  
advertised for Public Hearing.

M 406 94 A Motion was made by Mr. Cole, seconded by Mr. Collins, to  
Council- give \$250.00 from Mr. Cole's Councilmanic Account to the  
manic Rehoboth Beach Jazz Festival for operating expenses.  
Grant

Motion Adopted: 5 Yea.

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

M 407 94 A Motion was made by Mr. Collins, seconded by Mr. Stevenson,  
Council- to give \$250.00, \$50.00 from each Councilmanic Account, to  
manic the Sussex County Stamp Club for the 3rd Annual Stamp  
Grant Exhibition and Bourse.

Motion Adopted: 5 Yea.

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

M 408 94 A Motion was made by Mr. Stevenson, seconded by Mr. Collins,  
Council- to give \$200.00, \$40.00 from each Councilmanic Account, to  
manic People's Place Counseling Center for a special program for  
Grant the survivors of domestic violence.

M 408 94 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

M 409 94 At 10:50 a.m., a Motion was made by Mr. Stevenson, seconded by  
Recess Mr. Collins, to recess until 1:30 p.m. Motion Adopted by Voice  
Vote.

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

Attorney The Attorney present was Mr. Bayard, County Attorney.

Public Hearing A Public Hearing was held on the Proposed Ordinance entitled  
(C/Z "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX  
No. 1238) COUNTY FROM A B-1 NEIGHBORHOOD BUSINESS DISTRICT TO A C-1  
GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND  
LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CON-  
TAINING 33,184 SQUARE FEET, MORE OR LESS" (Change of Zone No.  
1238) filed on behalf of Dr. James Harold Bowen, Jr. The  
Public Hearing was closed.

M 410 94 A Motion was made by Mr. Collins, seconded by Mr. Benson, to  
Adopt Ordinance No. 986 entitled "AN ORDINANCE TO AMEND THE  
Ordinance COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A B-1 NEIGH-  
No. 986 BORHOOD BUSINESS DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT  
(C/Z FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL  
No. 1238) HUNDRED, SUSSEX COUNTY, CONTAINING 33,184 SQUARE FEET, MORE  
OR LESS" (Change of Zone No. 1238) filed on behalf of Dr.  
James Harold Bowen, Jr.

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 Change of Zone was appropriate  
legislative action based upon the following findings of  
fact:

1. The applicant established by substantial evidence that the site is bordered on the east by C-1 (General Commercial) property, on the west by C-1 property, on the south by a railroad line and on the north by Delaware Route 9.
2. The applicant established by substantial evidence that the rezoning is appropriate legislative action to bring the site into zoning conformity with its neighbors.

Findings  
of Fact  
(con't)

3. The applicant's proposed use of the site will have no adverse impact upon the character of the neighborhood, property values therein, traffic or the environment in the area.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public  
Hearing  
(C/U  
No. 1089)

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 RETAIL SALES OF ANTIQUES, COLLECTIBLES, GIFTS, PLANTS AND PRODUCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 3.229 ACRES, MORE OR LESS" (Conditional Use No. 1089) filed on behalf of Tim Curry.

M 411 94  
Adopt  
Ordinance  
No. 987  
(C/U  
No. 1089)

A Motion was made by Mr. Stevenson, seconded by Mr. Cole, to Adopt Ordinance No. 987 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RETAIL SALES OF ANTIQUES, COLLECTIBLES, GIFTS, PLANTS AND PRODUCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 3.229 ACRES, MORE OR LESS" (Conditional Use No. 1089) filed on behalf of Tim Curry, with the following stipulations:

1. No outside display of antiques shall be permitted after business hours.
2. No outside flea market type sales shall be permitted.
3. Signage shall not exceed 32 square feet.
4. The Site Plan shall be subject to 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 the proposed use will serve the convenience of the area and tourism, and will have no adverse impact on the character of the neighborhood, property values therein, traffic and the environment in the neighborhood.

- Findings (con't) 2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.
- Public Hearing (Mobile Campers) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE ZONING ORDINANCE FOR SUSSEX COUNTY, DELAWARE, AS IT RELATES TO HOUSE TRAILERS IN PARK OR CAMP-GROUNDS FOR MOBILE CAMPERS". The Public Hearing was closed.
- M 412 94 Approve Proposed Ordinance (Mobile Campers) DENIED A Motion was made by Mr. Collins, seconded by Mr. Cole, to approve the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE ZONING ORDINANCE FOR SUSSEX COUNTY, DELAWARE, AS IT RELATES TO HOUSE TRAILERS IN PARK OR CAMPGROUNDS FOR MOBILE CAMPERS". Motion Denied: 5 Nay.
- Vote by Roll Call: Mr. Benson, Nay; Mr. Cole, Nay; Mr. Collins, Nay; Mr. Stevenson, Nay; Mr. Dukes, Nay
- Recess Mr. Dukes declared a recess at 2:45 p.m.
- Reconvene Mr. Dukes called Council back into session at 2:55 p.m.
- Attorney Mr. Jones, Assistant County Attorney, was the Attorney present for the following Public Hearing.
- Public Hearing (C/U No. 1090) 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 LAND APPLICATION OF SLUDGE TO FORESTED LAND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 351.00 ACRES, MORE OR LESS" (Conditional Use No. 1090) filed on behalf of Townsends, Inc. The Public Hearing was closed and action was deferred.
- Recess Mr. Dukes declared a recess at 4:30 p.m.
- Reconvene Mr. Dukes called Council back into session at 4:45 p.m.
- Attorney Mr. Bayard, County Attorney, was the Attorney present for the following Public Hearing.
- Public Hearing (C/Z No. 1239) A Public Hearing was held on the 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.00 ACRES, MORE OR LESS" (Change of Zone No. 1239) filed on behalf of Tanger Properties, L.P.

September 27, 1994 - Page 9

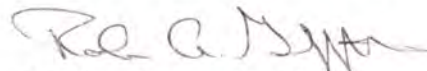
Recess Mr. Dukes declared a recess at 6:35 p.m.

Reconvene Mr. Dukes called Council back into session at 6:50 p.m.

Close The Public Hearing continued and was closed. Action was  
Hearing deferred.

M 413 94 A Motion was made by Mr. Collins, seconded by Mr. Cole, to  
Adjourn adjourn at 8:45 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council