

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 3, 1995

Call to Order The regular meeting of the Sussex County Council was held Tuesday, October 3, 1995, at 10:00 a.m. in the 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 432 95 A Motion was made by Mr. Collins, seconded by Mr. Benson, to Approve Minutes approve the minutes of the previous meeting dated September 26, 1995. Motion Adopted by Voice Vote.

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

RICHARD E. BRYANT, CHAIRMAN, EMERGENCY SERVICES CAMPOREE, BOY SCOUTS OF AMERICA, TROOP 95, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Council's additional contribution in the amount of \$250.00 for the Emergency Services Camporee.

DELAWARE DEPARTMENT OF TRANSPORTATION, DOVER, DELAWARE.

RE: Public Notice announcing a Public Workshop on the 1994 Transportation Enhancement Program.

CONCERNED CITIZENS OF OCEAN VIEW, OCEAN VIEW, DELAWARE.

RE: Petition to the President and Members of the Council of the Town of Ocean View, Delaware, requesting that the Town of Ocean View set a referendum on the proposed establishment of the Ocean View Sanitary Wastewater District.

State's Response to Delaware Working Group's Recommendations for Route One Mr. Stickels, County Administrator, introduced the Honorable Anne P. Canby, Secretary of the Delaware Department of Transportation, and Thomas J. Shafer of Whitman, Requardt and Associates. The discussion centered around the Delaware Working Group's report containing recommendations for Route One from Five Points to Rehoboth Beach and the State's planned course of action in response to these recommendations, as follows:

1. Develop a corridor overlay zone.

This issue is being addressed by the County.

2. Reduce speed limits and more strictly enforce traffic regulations.

Speed limits will be reduced during the summer season.

Response to Working Group's Recommendations (con't)

3. Create dedicated traffic lane for emergency vehicles.

Striping and signing will be provided on the shoulders to dedicate the lane for emergency vehicles and buses. Fire apparatus will still need to use the traffic lanes for the present time. DelDOT will look at improving shoulders to accommodate these vehicles. An alternate route will be provided for cyclists.

4. Develop an ultimate plan.

The State is supportive of this issue and will work with the County to deal with it. An important issue will be to deal with the different destinations of local traffic and thru-traffic.

5. Remove flashing red arrow signals and conduct study of traffic signalization and signage.

All flashing red arrow signals have been removed with the exception of one. The remaining red arrow signal has not been an issue.

6. Develop public transportation plan.

As part of the long range plan, the State is committed to look at the development and introduction of transit services beyond what is provided now.

7. Discourage pedestrian crossings of Route 1 until ultimate plan is developed.

The State agrees that pedestrian crossings of Route 1 should be discouraged. There is one location, at the Fisher Outlets, where pedestrians can be accommodated. Pedestrians will be encouraged to use transit services until ultimate Long Range Plan is implemented.

8. Improve lighting at key intersections.

This issue will be addressed in conjunction with the improved signage program.

9. Consider all recommendations prior to taking action on permit requests.

The State would like the turn-around time on zonings to be increased from 20 days to 45 days to provide adequate time for a response providing full information.

10. Develop public safety program.

The Working Group will work with the State on this issue, helping to distribute information to the public.

Discuss Proposed Ordinance Mr. Schafer, the County's Consultant for the Comprehensive Land Use Plan, reviewed a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING A HIGHWAY CORRIDOR OVERLAY ZONE". This Proposed Ordinance will address the Working Group's Recommendation No. 1.

Introduce Proposed Ordinance Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO ADD A NEW SECTION CREATING A HIGHWAY CORRIDOR OVERLAY ZONE". The Proposed Ordinance will be advertised for Public Hearing.

Adminis- trator's Report Mr. Stickels, County Administrator, discussed the following information in his County Administrator's Report:

1. Town of Laurel - Water Utility

Mr. Stickels has received notification from the Department of Natural Resources that an application has been filed by the Town of Laurel for a Certificate of Public Convenience and Necessity to provide public water service within the limits of the Town of Laurel, Sussex County, Delaware. The application may be inspected by appointment at the offices of the Department of Natural Resources and Environmental Control, 30 South American Avenue, Dover, Delaware. A public hearing will not be held unless the Department of Natural Resources receives a request for such a hearing no later than October 16, 1995. All requests for a hearing shall be in writing and must exhibit a familiarity with the application and a reasoned statement of the permit's probable impact.

2. Melvin L. Joseph Asphalt Plant

Mr. Stickels has received notification from Peter B. Jones, Assistant County Attorney, that Mr. Joseph has filed an appeal in Superior Court from the Board of Adjustment's decision with respect to the M. L. Joseph Asphalt Plant near Georgetown. In particular, it appears that Mr. Joseph's primary concern is with the condition attached to the approval concerning the construction of a road, both for the sand plant, which is existing, and the asphalt plant.

The stipulation stated that the Board approved the requested special use exception, but included a condition to address the truck traffic problem. The Board determined that all truck traffic to and from the site would have to cross the applicant's parcel directly from Route 113, crossing the applicant's property. Back roads,

Adminis-  
trator's  
Report  
(con't)

currently utilized by sand plant trucks, could not be used. Furthermore, due to the impossibility of enforcing which trucks were sand plant trucks and which were asphalt plant trucks, the Board held that all trucks utilizing either facility would have to access directly from Route 113.

This condition would go into effect as soon as the asphalt plant became operational, and would continue 12 months per year. The Board approved the special use exception for a maximum of five years.

In addition to Mr. Joseph filing an appeal, a group called "Concerned Citizens for the Quality of Life" and Glenda Scott have also filed an appeal to Superior Court requesting that the Board of Adjustment's decision granting Mr. Joseph permission be disallowed.

3. Approved Subdivision

On September 28, 1995, the Planning and Zoning Commission granted final approval for the following subdivision:

Subdivision No. 93-12 - Dr. James Beebe, Jr., AR-1 Agricultural Residential Zoning District in Indian River Hundred by dividing 41.70 acres into 21 lots, located on the north side of Road 287, 1,470 feet southeast of Road 285, and on the east side of Road 285, 272 feet north of Road 287; the streets within the subdivision are private, and the subdivision will be serviced by individual wells and septic.

4. Property Tax Bills

All County property tax bills were due payable September 30, 1995. Any bills received postmarked after that date and delivered to the Tax Office after Monday, October 2, will be subject to a 1 1/2 percent monthly penalty. Property owners who fail to pay their tax obligation are subject to have a lien placed on their property, which could result in a Sheriff's Sale.

Waste-  
water  
Agree-  
ment

Mr. Green, Director of Utility Construction, discussed a Construction Administration and Construction Inspection Agreement between Sussex County Council and Rehoboth Shores Association II, L.L.C.

M 433 95  
Execute  
Waste-  
water  
Agree-  
ment

A Motion was made by Mr. Cole, seconded by Mr. Benson, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County

M 433 95 Council and Rehoboth Shores Association II, L.L.C., for waste-  
(con't) water facilities to be constructed in Rehoboth Shores - Phase  
II A, located in the Long Neck Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Introduce Mr. Cole introduced the Proposed Ordinance entitled "AN  
Proposed ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1  
Ordinance AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF MATERIALS  
AND EQUIPMENT FOR A MASONRY COMPANY TO BE LOCATED ON A  
CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED,  
SUSSEX COUNTY, CONTAINING 6.86 ACRES, MORE OR LESS" (Condi-  
tional Use No. 1137) filed on behalf of Lawrence McKinney.  
The Proposed Ordinance will be advertised for Public Hearing.

M 434 95 At 11:10 a.m., A Motion was made by Mr. Collins, seconded by  
Recess Mr. Benson, 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.

Public A Public Hearing was held on the Proposed Ordinance entitled  
Hearing "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1  
(C/U AGRICULTURAL RESIDENTIAL DISTRICT FOR A RECREATION, YOUTH AND  
No. 1132) ADULT EDUCATION CENTER TO BE LOCATED ON A CERTAIN PARCEL OF  
LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY,  
CONTAINING 3.03 ACRES, MORE OR LESS" (Conditional Use No. 1132)  
filed on behalf of Mt. Zion A.M.E. Corp. The Public Hearing  
was closed.

M 435 95 A Motion was made by Mr. Benson, seconded by Mr. Cole, to  
Adopt Ordinance No. 1055 entitled "AN ORDINANCE TO GRANT A  
Ordinance CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL  
No. 1055 DISTRICT FOR A RECREATION, YOUTH AND ADULT EDUCATION CENTER  
(C/U TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN  
No. 1132) CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.03 ACRES,  
MORE OR LESS" (Conditional Use No. 1132) filed on behalf of  
Mt. Zion A.M.E. Corp., with the following stipulation:

1. The applicant's site plan shall be subject to review  
and final approval by 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 on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use will serve a community need and will benefit citizens of all ages in the area.
2. The applicant established by substantial evidence that the proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan and will have no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing (C/Z No. 1263)    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 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.09 ACRES, MORE OR LESS" (Change of Zone No. 1263) filed on behalf of Fred J. and Bonita Taylor. The Public Hearing was closed.

M 436 95 Adopt Ordinance No. 1056 (C/Z No. 1263)    A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Ordinance No. 1056 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 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.09 ACRES, MORE OR LESS" (Change of Zone No. 1263) filed on behalf of Fred J. and Bonita Taylor.

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 on the following findings of fact:

1. The applicant established by substantial evidence that the change of zone will bring two ongoing business activities into compliance with the Comprehensive Zoning Ordinance. The ongoing business activities presently serve the area's convenience and will have no adverse impact on the character of the neighborhood, property values therein, traffic and the environment.

Findings (con't) 2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing (C/Z No. 1264) 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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 33,112 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1264) filed on behalf of Joseph J. Balsamo.

M 437 95 Adopt Ordinance (C/Z No. 1264) A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Ordinance No. 1057 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 33,112 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1264) filed on behalf of Joseph J. Balsamo.

Motion Adopted: 5 Yea.

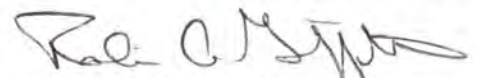
Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

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

1. The applicant established by substantial evidence that the change of zone is a logical next step for an area that can have no reasonable zoning classification other than B-1 Neighborhood Business, since properties adjacent east and west have developed and are zoned B-1.
2. The applicant established by substantial evidence that the change of zone will be consistent with the character of the neighborhood and will have no adverse impact on property values or the environment and will have no significant traffic impact on the area.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 438 95 Adjourn A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to adjourn at 12:20 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council