

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 3, 2000

Call to Order The regular meeting of the Sussex County Council was held Tuesday, October 3, 2000, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Lynn J. Rogers	President
Dale R. Dukes	Vice President
Finley B. Jones, Jr.	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Eugene Bayard	County Attorney

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

M 485 00 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve
Approve the Agenda, as distributed.
Agenda

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
 Mr. Dukes, Yea; Mr. Jones, Yea;
 Mr. Rogers, Yea

M 486 00 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve
Approve the minutes of the September 26, 2000 meeting, as distributed.
Minutes

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
 Mr. Dukes, Yea; Mr. Jones, Yea;
 Mr. Rogers, Yea

Corre- Mr. Bayard read the following correspondence:
spondence

WILLIAM C. LECATES, DIRECTOR, SUSSEX COUNTY
COMMUNITY DEVELOPMENT AND HOUSING DIVISION,
GEORGETOWN, DELAWARE.

RE: Memo in appreciation of County employees who helped with the
Ellendale Sewer District Survey.

Corre-
spondence
(continued)

LOIS RYAN, DELMAR, DELAWARE.

RE: Letter to Mr. Vance Phillips in appreciation of the “fine work” the Council members have done for Sussex County.

Sussex
Conservation
District

Mr. Buehl, District Coordinator of the Sussex Conservation District, was in attendance to accept a grant from Council in the amount of \$75,483. These funds will be used by the District to pay or assist in paying all costs including personnel required for the planning, construction, maintenance and installation of tax ditches, public group ditches, highway ditches and resource conservation projects. Mr. Buehl discussed the significance of the drainage program and expressed his appreciation for Council’s support. Mr. Stickels reported that, from January, 1988 to date, the County Council has made \$1,483,539 in funding available to the Sussex Conservation District.

Adminis-
trator’s
Report

Mr. Stickels read the following information in his County Administrator’s Report:

1. Public Workshop

The Delaware Department of Transportation is holding a Public Workshop to present facts and solicit comments regarding the proposed rehabilitation of Bridge 376 on State Road 376 over Sandy Branch, Selbyville. The meeting will be held on Wednesday, October 11, 2000, in the cafeteria of the Selbyville Middle School, Bethany Road, one mile north of Selbyville town limits. The public is invited to attend the workshop anytime between the hours of 4:00 p.m. and 7:00 p.m.

The existing corrugated metal pipe bridge is deteriorated. In order to strengthen the bridge and minimize the affect to local buildings, the proposed construction will include: 1) the installation of a liner on the underside of the pipe, 2) filling the gap between the liner and the existing pipe with concrete, and 3) constructing a concrete slab at the channel bottom.

2. Columbus Day Closing

Sussex County offices will be closed Monday, October 9, 2000, to allow employees to observe the Columbus Day holiday. Offices will reopen at 8:30 a.m. on Tuesday, October 10, 2000. There will be a regularly scheduled Council meeting at 10:00 a.m. in the Council Chambers.

Holts
Landing
SSD

Mr. Baker, Finance Director, presented a draft ordinance for introduction establishing the annual service charge and annual assessment rate for the Holts Landing Sanitary Sewer District. The estimated total project costs to be Bond funded are \$1,855,000; the annual debt service on State

Holts
Landing
SSD
(continued)

Revolving Fund Loan Funding is \$107,701.88; the connection fee is \$1,559.00; the service charge rate is \$295.00; and the annual assessment rate is \$2.50 per front foot. Fees charged by the County are for transmission and treatment. The residents will still need to pay Utilities Systems Inc. for maintenance of the collection system.

Proposed
Ordinance

Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE ESTBLISHING THE ANNUAL SERVICE CHARGE AND ANNUAL ASSESSMENT RATE FOR THE HOLTS LANDING SANITARY SEWER DISTRICT". The Proposed Ordinance will be advertised for Public Hearing. A Public Hearing will be held on October 24, 2000 at 11:00 a.m.

Sheriff
Department/
Personnel
Issues

Sheriff Reed was present and requested that the discussion on personnel issues be moved to Executive Session. The Sheriff stated that after speaking with the County Attorney, he felt there were a couple of issues that would best benefit the Councilmen to hear in Executive Session.

Mr. Bayard stated that, in his discussion with the Sheriff, he suggested that personnel matters should be resolved, if they could be resolved, in Executive Session and then announce publicly what that resolution was, if a resolution was reached.

Mr. Rogers stated that it has been policy that the County Administrator, Finance Director, Personnel Director, and County Attorney are present during Executive Sessions. Mr. Rogers stated that he knows the Sheriff has a problem with this; however, he feels that all these people should be in attendance.

Sheriff Reed stated that he does not want the County Administrator, Finance Director, and Personnel Director in attendance if an Executive Session were held for the purpose of discussing these issues.

It was the consensus of Council that, if these issues were to go to Executive Session, that the County Administrator, Finance Director, and Personnel Director should be in attendance. Due to the fact that the Sheriff could not agree with Council, it was decided to move forward with the discussion of the issues during the regular Council meeting.

Sheriff Reed requested Council's approval to increase deputies' starting salaries from \$17,500 to \$23,600 and to change the work week to a forty (40) hour work week. Sheriff Reed stated that additional work hours are needed to reduce comp-time and over-time. Sheriff Reed reported that the \$17,500 salary is just barely above the poverty level for a family of four.

Sheriff Reed stated that comments have been made that the County does not need certified deputies, that they only serve papers. The Sheriff gave

Sheriff
Department/
Personnel
Issues
(continued)

examples of incidents where deputies have been shot and killed or wounded while they were serving court papers, transporting prisoners, or taking possession of a residence. The Sheriff stated that the County needs qualified men and women who know how to handle a potentially dangerous situation.

Mr. Dukes questioned the validity of statements that have been made that deputies have left their positions due to the amount of pay they receive. Further, Mr. Dukes questioned why the Sheriff and the deputies are not wearing their bullet-proof vests. The Sheriff responded to these questions by saying that deputies have left for more pay and that vests are worn; however, they are not worn when they are in the office or performing job duties that are not dangerous.

Mr. Dukes suggested that Council look into rescinding the three (3) percent bid fee that the Sheriff Department receives; that if these discussions continue with the Sheriff, this is something Council is going to have consider.

Due to the fact that Mr. Cole was not in attendance, Council made no decision regarding the Sheriff's requests and decided to take the matter under advisement.

Emergency
Flashing
Lights
on
Sheriff
Vehicles

Mr. Stickels advised Council of a letter received from Brian J. Bushweller, Secretary of the Delaware Department of Public Safety regarding the emergency flashing lights that have been mounted on the Sheriff's cars. In his letter, Secretary Bushweller states that he, nor the Department, have authorized the vehicles used by the Sheriff in Sussex County as "emergency vehicles" entitled to use flashing lights. On September 22, 2000, it was decided that the Sheriff had to remove the lights by October 1, 2000 or provide compelling argument as to why the Secretary should reconsider his position that the Sheriff's use of the lights violate State law. In his letter, the Secretary advised that as of this date, October 3, 2000, he has not heard from the Sheriff. He further stated that if the County does not remove all flashing lights from its vehicles by October 15, 2000, then the Department may have to suspend their registration.

Sheriff Reed and Deputy Mumford commented on the letter and their disagreement with the contents therein. Deputy Mumford stated that it is his opinion that the lights are appropriate for Sheriff vehicles in accordance with his interpretation of the Delaware Code. The Sheriff advised that the lights were installed on the vehicles four years ago, before he was elected Sheriff. He stated that he is not in agreement with the letter and he is not going to remove the lights.

Mr. Rogers expressed concern over the potential liability to the County.

- Vehicles
(continued) Mr. Stickels strongly recommended that the Sheriff respond to the Secretary's letter immediately.
- Town of
Delmar/
Complaint
Regarding
Dilapidated
House Delmar Code Enforcement Officer Gaylon Bounds was present on behalf of the Town of Delmar to express their concerns over a dilapidated residence on State Street that is located outside of the town limits. The property includes two buildings. Al Phillips of the Sussex County Community Development Office stated that the building to the rear of the property is scheduled to be burned down next week. He further advised that the fire company is hesitant to burn the other building due to fiber optic cables that are on the property. Mr. Stickels and Mr. Phillips assured Mr. Bounds that the County is actively seeking a solution to this problem.
- County
Council/
Night
Meetings Mr. Phillips asked the County Administrator to prepare a report regarding the Council's meeting schedule and the possibility of holding the meetings during evening hours. Mr. Phillips advised Council of an unofficial survey he conducted on September 26, 2000 prior to the afternoon session of the County Council meeting. In the survey, 81 percent of the respondents indicated that they would prefer Council to hold their meetings in the evening. Mr. Phillips has suggested on several occasions that the Council consider moving its meetings to evening hours for the purpose of making the meetings more accommodating to the citizens of Sussex County.
- M 487 00
Council-
manic
Grant A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$300.00, \$150.00 each from Mr. Dukes' and Mr. Phillips' Councilmanic Accounts, to the Laurel Wrestling Boosters for operating expenses.
- Motion Adopted: 4 Yea, 1 Absent.
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Absent;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea
- Recess Mr. Rogers declared a recess at 1:30 p.m.
- Reconvene Mr. Rogers called Council back into session at 1:35 p.m.
- Attendance Mr. Cole was present for the afternoon session.
- Public
Hearing
(C/U
No 1357) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A SALES CART PROGRAM FOR THE SALES OF SOFT AND HARD GOODS FROM CARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 14.86 ACRES, MORE OR LESS"

Public
Hearing
(C/U
1357)
(continued)

(Conditional Use No. 1357) filed on behalf of Super Fresh Food Market. The Planning and Zoning Commission held a Public Hearing on this application on September 14, 2000 at which time they recommended that the application be denied due to the lack of a representative of the application and the lack of a presentation in support. The Council found that a representative of Super Fresh Food Markets was in attendance to present the application. There were no public comments and the Public Hearing was closed. It was recommended that action be deferred to await recommendations on other Proposed Ordinances relating to vendors and sales cart programs.

M 488 00
Defer
Action

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action on Conditional Use No. 1357 filed on behalf of Super Fresh Food Market.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

Public
Hearing
(C/U
No. 1358)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A PUBLIC UTILITY WATER PLANT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS" (Conditional Use No. 1358) filed on behalf of Artesian Water Co., Inc. The Planning and Zoning Commission held a Public Hearing on this application on September 14, 2000 at which time they recommended approval with stipulations. James F. Waehler, Attorney, and Jeff Clark of Land Tech, L.L.C. spoke on behalf of the application and stated that they propose to provide water service from an already preliminarily approved water plant site in the development of Bayville Shores Development, to service surrounding communities. There were no public comments and the public hearing was closed.

M 489 00
Adopt
Ordinance
No
1401

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1401 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A PUBLIC UTILITY WATER PLANT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS" (Conditional Use No. 1358) filed on behalf of Artesian Water Co., Inc., with the following conditions:

M 489 00
(continued)

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
2. The 30-foot buffer along Swann Drive shall remain undisturbed.
3. The tanks shall be painted a pale blue with no lettering.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, 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 is requesting a conditional use permit in a HR-1 zoned district in order to be permitted to provide water service, from an already preliminarily approved water plant site in the development of Bayville Shores, to service surrounding communities.
2. The 1997 Sussex County Comprehensive Plan adopted October 21, 1997, at Page 7, and future zoning maps, places the water plant site in a development district, and at Page 7, indicates that some of the purposes of the district are to encourage higher residential densities “and commercial and industrial uses”.
3. The 1997 Sussex County Comprehensive Plan, adopted October 21, 1997, at Page 20, places the water plant site in an area designated for a “potential future public water system”.
4. The land use and development trends in the area allow this parcel to be an appropriate location for a water plant site, since it will be centrally located to serve developments, business customers, and individuals desiring the convenience, safety and reliability of a central public water system.
5. The proposed location will be as unobtrusive as possible due to the retention of existing woodlands within the 30’ setbacks bordering lands adjacent to Bayville Shores and the commitment of the Applicant to paint the elevated water storage tank and the 30’ tanks a pale blue with no lettering.
6. The water plant site will be integrated into a developing regional water system so that if a water main ruptures, water service can be obtained from an alternate location.
7. The elevated water storage tank at the water plant site will be able to

Findings
of Fact
(continued)

provide water pressure for both domestic and fire protection purposes in the event of a power outage.

8. The proposed use will help meet the need of supplying an affordable and safe public water source to the Fenwick and Route 54 West resort areas of Sussex County.
9. The granting of the conditional use is in accordance with the 1997 Sussex County Comprehensive Plan; promotes health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County; and the adoption of the conditional use ordinance is for the general convenience and welfare of the inhabitants of Sussex County.

Public
Hearing
(C/Z
No. 1411)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10,400 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1411) filed on behalf of Illya Waples. The Planning and Zoning Commission held a Public Hearing on this application on September 14, 2000 at which time they recommended approval. Illya Waples was present on behalf of the application. There were no public comments and the Public Hearing was closed.

M 500 00
Adopt
Ordinance
No. 1402
(Change
of Zone
No. 1411)

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1402 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10,400 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1411) filed on behalf of Illya Waples.

Motion Adopted: 4 Yea, 1 Abstention.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Abstained

(Mr. Rogers abstained due to the fact that he was out of the room during the Public Hearing.)

Findings
of Fact

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

Findings
of Fact
(continued)

1. The applicant established by substantial evidence that the change of zone is consistent with the purposes and goals of the Comprehensive Land Use Plan and will create no adverse impact of any sort; instead, the change of zone will eliminate the possibility of commercial activity on site, leaving residential use as the future of the site, consistent with the character of the neighborhood, as developed.
2. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/Z
No. 1412
and
C/Z
No. 1413)

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 SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 15.9487 ACRES, MORE OR LESS" (Change of Zone No. 1412) filed on behalf of L.A. Williams and the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 8.9314 ACRES, MORE OR LESS" (Change of Zone No. 1413) filed on behalf of L. A. Williams. The Planning and Zoning Commission held a Public Hearing on these applications on September 14, 2000 at which time they deferred action. Levin Williams was in attendance to present the application. There were no public comments and the public hearing was closed.

M 501 00
Defer
Action
(C/Z
No. 1412
and
C/Z
No. 1413)

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to defer action on Change of Zone No. 1412 and Change of Zone No. 1413 filed on behalf of L. A. Williams.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

Public
Hearing
(C/Z
No. 1414)

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 LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 10.14 ACRES, MORE OR LESS" (Change of Zone No. 1414) filed on behalf of Allen T. Handy, Sr. The Planning and Zoning

Public
Hearing
(continued)

Commission held a Public Hearing on this application on September 14, 2000 at which time they deferred action. Allen Handy was in attendance to present the application. There were no public comments and the Public Hearing was closed.

M 502 00
Defer
Action
(C/Z
No. 1414)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Change of Zone No. 1414 filed on behalf of Allen T. Handy, Sr.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

Draft
Ordinance/
Setbacks

Mr. Cole asked Mr. Lank, Director of Planning and Zoning, to prepare a draft ordinance relating to commercial setbacks along Route 13 and Route 113 corridors.

M 503 00
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$100.00 from Mr. Phillips' Councilmanic Account to the Delaware 4-H Foundation for the Sussex County 4-H basket auction and dinner.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea

M 504 00
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to adjourn at 2:50 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the Council