

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 13, 1998

Call to Order The regular meeting of the Sussex County Council was held Tuesday, October 13, 1998, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
George J. Collins	Member
Lynn J. Rogers	Member

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

M 450 98 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Approve Agenda approve the Agenda, as presented.

Motion Adopted: 5 Yea.

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

M 451 98 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Approve Minutes approve the minutes of the previous meeting, dated October 6, 1998.

Motion Adopted: 5 Yea.

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

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

1998 MAJOR LEAGUE BASEBALL STATE CHAMPIONS, GEORGETOWN LITTLE LEAGUE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

MARIE JO GRAY, TREASURER, MILFORD COMMUNITY PARADE, MILFORD, DELAWARE.

RE: Letter in appreciation of Councilmanic Grant.

VAUGHN TRAMMELL, CHAIRPERSON, COOLSPRING FARMS CIVIC ASSOCIATION, MILTON, DELAWARE.

RE: Letter requesting the preparation of a petition for the purpose of forming a streetlighting district in the Coolspring Farms Development.

Sussex
Conser-
vation
District

Mr. Vanderwende, Chairman of the Sussex Conservation District, Mr. Buehl, District Coordinator of the Sussex Conservation District, and Mr. Henderson, Member of the Sussex Conservation District, were in attendance to accept a grant from Council in the amount of \$120,000. These funds will be used by the Sussex Conservation District to pay or assist in paying all costs required for the planning, construction, maintenance and installation of tax ditches. Mr. Vanderwende discussed the significance of the drainage program and expressed his appreciation for the Council's support of the program.

M 452 98
Adopt
Procla-
mation

A Motion was made by Mr. Collins, seconded by Mr. Cole, to Adopt the Proclamation entitled "PROCLAMATION HONORING KAY A. OLMSTEAD".

Motion Adopted: 5 Yea.

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

James
Farm/
Occupancy
Agreement

Ms. Pat Campbell White, Mr. Robert Frederick, and Mr. Jim Elliott, Board Members of the Center for the Inland Bays, and Mr. Jim Alderman, Restoration Coordinator for the James Farm, were in attendance to discuss the Proposed Occupancy Agreement between Sussex County Council and the Center for the Inland Bays for the property known as the James Farm. The Center for the Inland Bays Management Plan was discussed as well as the James Farm Restoration Project schedule. Mr. Stickels, County Administrator, discussed amendments to the Proposed Occupancy Agreement including the following:

1. Include the following sentence at the end of Section III.

"Any construction, clearing or other work on site shall only begin upon receipt of written authorization of the County Engineer."

2. Amend the completion dates for Task 1 and Task 2 in Appendix B to November 1998.

M 453 98
Execute
Occupancy
Agreement
for
James
Farm

A Motion was made by Mr. Cole, seconded by Mr. Collins, to authorize the President of the Sussex County Council to execute an Occupancy Agreement with the Center for the Inland Bays for the property known as the James Farm, as amended, and contingent on the approval of the Assistant County Attorney.

Motion Adopted: 5 Yea.

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

M 454 98 A Motion was made by Mr. Collins, seconded by Mr. Jones, that Authorize an Executive Session of the Sussex County Council be held in Executive the Caucus Room in the Sussex County Administrative Office Session Building beginning at 11:30 a.m. for the purpose of discussing land acquisition and personnel.

Motion Adopted: 5 Yea.

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

Adminis- Mr. Stickels, County Administrator, read the following informa-
trator's tion in his County Administrator's Report:
Report

1. Certificate of Public Convenience

I have received notification from the Department of Natural Resources and Environmental Control (DNREC) that the Artesian Water Company has applied for a Certificate of Public Convenience and Necessity to provide water service to the Town of South Bethany, Sussex County, Delaware. Artesian will be serving 1,233 lots within the town limits. The application may be inspected by appointment at the offices of the Department of Natural Resources and Environmental Control, Suite 200, 5 East Reed Street, Dover, Delaware. A public hearing will not be held unless DNREC receives a request for such a hearing no later than October 30, 1998.

I know of no reason why the Sussex County Council would oppose this application.

Deposit Mr. Baker, Finance Director, discussed the opening of a new
Account interest-bearing deposit account at Wilmington Trust Company for the payment of Cedar Neck sewer construction costs.

M 455 98 A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt
Adopt Resolution No. R 020 98 entitled "CASH MANAGEMENT ACCOUNT
R 020 98 RESOLUTION".

Motion Adopted: 5 Yea.

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

M 456 98 A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt
Adopt Resolution No. R 021 98 entitled "AUTHORIZING THE PAYMENT FROM
R 021 98 FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMING-
TON TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF DALE R.

M 456 98
(con't)

DUKES, PRESIDENT; FINLEY B. JONES, JR., VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Motion Adopted: 5 Yea.

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

Compre-
hensive
Plan
Over-
sight
Advisory
Com-
mittee/
Ordinance
Recommen-
dations/
Council
Action

Mr. Abbott, Assistant Director of Planning and Zoning, reported on the recommendations of the Comprehensive Plan Oversight Advisory Committee in relation to (1) the Large Scale Commercial Development Ordinance (draft) and (2) the Intergovernmental Coordination Ordinance (draft).

(1) "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO DEVELOPMENT IN THE C-1 GENERAL COMMERCIAL ZONING DISTRICT, AND THE B-1 NEIGHBORHOOD BUSINESS ZONING DISTRICT, TO ADD A NEW PROVISION RELATING TO LARGE SCALE COMMERCIAL USES, TO AMEND THE PROVISIONS RELATING TO OFF-STREET PARKING AND OFF-STREET LOADING, TO AMEND SETBACK PROVISIONS, AND TO BRING OTHER PROVISIONS OF CHAPTER 115 IN CONFORMITY WITH THESE AMENDMENTS."

The recommendation of the Committee was to require that sites subject to parking lot landscaping include new construction of any building(s) proposing a parking lot of sixty (60) spaces or more.

For introduction purposes, it was the consensus of Council that "sixty (60) spaces" be changed to "twenty (20) spaces". This is more restrictive and therefore, could be increased during the introduction/public hearing process.

The recommendation of the Committee does not incorporate any setback requirements for dumpsters, trash pads and trash collection storage areas.

For introduction purposes, it was the consensus of Council that setbacks of 20' (side) and 30' (rear) be required for dumpsters, trash pads, and trash collection storage areas. This is more restrictive and therefore, could be reduced/eliminated during the introduction/public hearing process.

Other amendments to the drafted ordinance were made by Council for "housekeeping" purposes.

(2) "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY ENTITLED 'ZONING' TO ADD A NEW SECTION CREATING AN INTERGOVERNMENTAL COORDINATION DISTRICT."

Ordinance Recommendations (con't) The consensus of the Comprehensive Plan Oversight Advisory Committee was that the Draft Ordinance, as proposed, be re-drafted requiring that municipalities be notified of any conditional use, rezoning or subdivision application within a one mile radius of the municipalities boundary as is now done by policy.

It was the consensus of Council that the Draft Ordinance be re-drafted.

M 457 98 At 11:20 a.m., a Motion was made by Mr. Jones, seconded by Recess/ Mr. Rogers, to recess and go into Executive Session Executive Session Motion Adopted: 5 Yea.

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

Executive Session At 11:30 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Administrative Office Building for the purpose of discussing land acquisition and personnel. The Executive Session concluded at 12:10 p.m.

Reconvene At 1:38 p.m., Mr. Dukes called Council back into regular session.

Public Hearing (C/U No. 1258) 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 STORAGE OF LIQUEFIED PETROLEUM GAS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS" (Conditional Use No. 1258) filed on behalf of Paradee Gas Co., Inc. There were no public comments and the Public Hearing was closed.

M 458 98 Adopt Ordinance No. 1265 (C/U No. 1258) A Motion was made by Mr. Collins, seconded by Mr. Jones, to Adopt Ordinance No. 1265 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF LIQUEFIED PETROLEUM GAS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR LESS" (Conditional Use No. 1258) filed on behalf of Paradee Gas Co., Inc., with the following conditions:

1. Chain-link type fencing, a minimum of 6' high with barbwire, shall be provided around the perimeter of the site.
2. Security lighting shall be provided.
3. No trucks or customer tanks or cylinders shall be stored on site.

M 458 98
(con't)

4. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all appropriate agency approvals and/or permits.
5. The applicant shall maintain all licenses and approvals required by all agencies.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;
Mr. Collins, Yea; Mr. Jones, 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 enable it to better serve its residential, commercial and agricultural customers in the area, without adverse impact of any sort upon adjacent and nearby areas.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/U
No. 1259)

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 SALES OF SHEET METAL, HARDWARE, USED MACHINERY, AND USED EQUIPMENT TO FARMERS, FISHERMEN AND RELATED BUSINESSES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 6.75 ACRES, MORE OR LESS" (Conditional Use No. 1259) filed on behalf of William L. and Bonnie M. Warren. There were no public comments and the Public Hearing was closed.

M 459 98
Adopt
Ordinance
No. 1266
(C/U
No. 1259)

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1266 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SALES OF SHEET METAL, HARDWARE, USED MACHINERY, AND USED EQUIPMENT TO FARMERS, FISHERMEN AND RELATED BUSINESSES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 6.75 ACRES, MORE OR LESS" (Conditional Use No. 1259) filed on behalf of William L. and Bonnie M. Warren, with the following conditions:

1. The entire perimeter of the conditional use shall be fenced with an eight (8) foot high solid fencing. The fencing shall setback a minimum of 75' from the front property line.

M 459 98
(con't)

2. No storage shall be permitted in the wooded area.
3. The front and southerly perimeter of the conditional use shall be landscaped with a single row of large trees along the south, and a double row of large trees on the front.
4. Business hours shall be limited to 7:00 a.m. to 5:00 p.m. weekdays, and 7:00 a.m. to 1:00 p.m. on Saturday and Sunday.
5. No storage shall be permitted outside of the fencing.
6. No parking shall be permitted within the 50' wide right of way on the north boundary.
7. All trucks and moving equipment, when not in use, shall be stored behind the fence.
8. One unlighted sign, not exceeding 32 square feet, may be permitted.
9. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all agency approvals.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;
Mr. Collins, Yea; Mr. Jones, 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 variety of commercial and private interests in Sussex County, without adverse impact of any sort upon the immediate area or the surrounding community.
2. The conditional use meets the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
(C/Z
No. 1348)

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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.14 ACRES, MORE OR LESS" (Change of Zone No. 1348) filed on behalf of William K. McMahon. There were no public comments and the Public Hearing was closed.

M 460 98 A Motion was made by Mr. Rogers, seconded by Mr. Cole, to Adopt
Adopt Ordinance No. 1267 entitled "AN ORDINANCE TO AMEND THE COMPRE-
Ordinance HENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL
No. 1267 RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT
(C/Z FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND
No. 1348) REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.14 ACRES, MORE
OR LESS" (Change of Zone No. 1348) filed on behalf of William
K. McMahon.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;
Mr. Collins, Yea; Mr. Jones, 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 a pre-existing non-conforming use and a conforming use into conformity in one zoning classification, without impact of any sort, since the pre-existing non-conforming use has been on-going for almost 30 years.
2. The change of zone serves the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Conflict of Interest Mr. Dukes advised that he had a possible conflict of interest with Change of Zone No. 1349. For this reason, Mr. Dukes turned the meeting over to Mr. Jones.

Public Hearing (C/Z No. 1349) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.23 ACRES, MORE OR LESS" (Change of Zone No. 1349) filed on behalf of Billy C. Jones, Jr. Public comments were heard in opposition to the application and the Public Hearing was closed.

M 461 98 A Motion was made by Mr. Rogers, seconded by Mr. Collins, to
Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND
Proposed THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL
Ordinance RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A
(C/Z CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED,
No. 1349) SUSSEX COUNTY, CONTAINING 1.23 ACRES, MORE OR LESS" (Change of
Zone No. 1349) filed on behalf of Billy C. Jones, Jr.

M 461 98 Motion Denied: 4 Nay, 1 Abstention.
(con't)

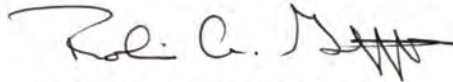
Vote by Roll Call: Mr. Cole, Nay; Mr. Rogers, Nay;
Mr. Collins, Nay; Mr. Jones, Nay;
Mr. Dukes, Abstained

Findings/ Council discussed the fact that approval of this application
Decision would result in spot-zoning and would not be in compliance with
(C/Z the Comprehensive Land Use Plan; for this reason, the applicant
No. 1349) should have been informed at the time of making application to
request a downzoning to AR-1 Agricultural Residential while at
the same time to make application for a conditional use.

It was the consensus of Council, although the request for
Change of Zone No. 1349 was denied, that the applicant be per-
mitted to reapply for a change of zone in conjunction with a
conditional use at any time.

M 462 98 A Motion was made by Mr. Collins, seconded by Mr. Rogers, to
Adjourn adjourn at 2:45 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council