

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 7, 1995

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, November 7, 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 488 95      A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to Approve      approve the minutes of the previous meeting dated October 31, Minutes      1995. Motion Adopted by Voice Vote.

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

Representative Mike Castle, Congress of the United States, House of Representatives, Washington, D.C.  
RE: Letter in response to County Administrator Robert Stickels' letter regarding the House Rural Development Reform Act of 1995.

TIL PURNELL, LEAGUE OF WOMEN VOTERS OF SUSSEX COUNTY, SUSSEX COUNTY, DELAWARE.  
RE: Letter inviting Council to an open public meeting to be held by the League of Women Voters of Sussex County on Tuesday, November 14, 1995, at 7:30 p.m., at the All Saints Church on Olive Avenue in Rehoboth Beach, Delaware.

STATE OF DELAWARE, DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, DIVISION OF AIR AND WASTE MANAGEMENT, DOVER, DELAWARE.

RE: Notice of Public Hearing on revisions to the Regulation for the Management of Extremely Hazardous Substances (EHS) on December 5, 1995, beginning at 2:00 p.m. in the Air Quality Management Section Conference Room, 156 S. State Street, Dover, Delaware.

DEPARTMENT OF THE ARMY, U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT, WANAMAKER BUILDING, PHILADELPHIA, PENNSYLVANIA.  
RE: Notice to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit. Applicant: Angola Beach and Estates Marina. Waterway: Burton Prong.

Prison  
Arts  
Program

Mrs. Kay Wood Bailey, Prison Arts Administrator of the Delaware Department of Corrections, discussed the Prison Arts Program, a program that has been teaching art classes at the Sussex Correctional Institution since 1979. The Prison Arts Program has received requests to continue classes in the psychotic ward (Chronic Care) and to reopen classes in the drug rehabilitation section (Reshape) and at the Sussex Work Release Center. Ms. Bailey requested funding in the amount of \$1,000.00 from Council; \$500.00 for the Reshape class series and \$500.00 for the Sussex Work Release Center class series.

M 489 95  
Human  
Service  
Grant

A Motion was made by Mr. Collins, seconded by Mr. Benson, to give \$1,000.00 from Human Service Grants to the Prison Arts Program; \$500.00 for the Reshape class series and \$500.00 for the Sussex Work Release Center class series.

Motion Adopted: 5 Yea.

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

Proposed  
Ordinance

Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, THE CODE OF SUSSEX COUNTY, RELATING TO PLAN SUBMISSION PROCEDURE". A Public Hearing will be held on this Proposed Ordinance.

1996  
County  
Holiday  
Schedule

Mr. Stickels, County Administrator, reviewed the proposed 1996 County Holiday Schedule and the proposed dates that Council meetings will not be held, as follows:

<u>HOLIDAY</u>	<u>COUNTY OBSERVANCE</u>
New Year's Day	January 1, 1996
Martin Luther King, Jr.'s Birthday	January 15, 1996
President's Day	February 19, 1996
Good Friday	April 5, 1996
Memorial Day	May 27, 1996
Independence Day	July 4, 1996
Labor Day	September 2, 1996
Columbus Day	October 14, 1996
Election Day	November 5, 1996
Return Day	November 7, 1996
Veterans' Day	November 11, 1996
Thanksgiving Day	November 28, 1996
Day After Thanksgiving	November 29, 1996
Christmas Eve	December 24, 1996
Christmas Day	December 25, 1996

NO COUNCIL MEETING

National Association  
of Counties Conference  
Easter Week

March 5, 1996  
April 9, 1996

1996	Memorial Day Week	May 28, 1996
County	Independence Day Week	July 2, 1996
Holiday	Labor Day Week	September 3, 1996
Schedule	Election Day	November 5, 1996
(con't)	Thanksgiving Day Week	November 26, 1996
	Christmas Eve	December 24, 1996

M 490 95 A Motion was made by Mr. Cole, seconded by Mr. Collins, Adopt 1996 and the dates that Council meetings will not be held, as County Holiday Schedule 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

Request for Funding for County-wide Thanksgiving Dinner Mr. Stickels, County Administrator, discussed a request from Catholic Social Services for funding in the amount of \$675.00 for the purchase of turkeys for the county-wide, free Thanksgiving Dinner sponsored by the Church of God and Saints of Christ of Seaford, in cooperation with Sussex County Cheer Program, Catholic Charities, First State Community Action Agency, Senior Centers, and State Service Center. This service will provide 1,700 meals to needy individuals and families throughout Sussex County.

M 491 95 A Motion was made by Mr. Stevenson, seconded by Mr. Cole, Human Service Grant to give \$675.00 from Human Service Grants to Catholic Charities for the purchase of turkeys for the county-wide, free Thanksgiving Dinner.

Motion Adopted: 5 Yea.

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

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

1. Sussex County v. Minnie Bertrand, et. al.

Peter B. Jones, Assistant County Attorney, has given notice to the Plaintiffs regarding the Bertrand property in Roxana that unless the Chancery Court Order of November 17, 1993, is fully complied with by December 1, 1995, the County will arrange for the removal of the remaining debris from the property. The cost of removal will be billed to the Plaintiffs, and if the bill is not paid promptly, the parcel will be sold in order to pay the cleanup cost.

Adminis-  
trator's  
Report  
(con't)

A large portion of the property has been cleaned up. Nonetheless, the job must be completed by December 1, 1995, or the County will take action.

2. Mildred King Luncheon

County offices will be closed Tuesday, December 5, 1995, from 11:45 a.m. until 1:15 p.m. in order to allow County employees to attend the annual Mildred King Memorial Luncheon. The luncheon will take place at the Wesley United Methodist Church Hall, East Laurel Street, Georgetown, Delaware.

3. Delaware Department of Transportation Public Hearing

DelDOT will be conducting a public hearing for the purpose of receiving public comment on improvements to S.R. 26 from the Assawoman Canal to S.R. 1. The hearing will be held on Tuesday, November 28, 1995, from 4:00 to 8:00 p.m. at Saint Ann's Church Hall, Bethany Beach, Delaware. DelDOT is proposing improvements which include widening of S.R. 26 to provide a 12-foot continuous center turn lane, two 11-foot travel lanes, two six-foot shoulders, two five-foot sidewalks, and right turn lanes in several locations.

The County Council has supported the Town of Bethany's position regarding these improvements. However, in the past, the Council has stated that they wish to see improvements on S.R. 26 to continue west of the Canal bridge.

4. Sussex County Landfill No. 5 (Laurel)

Included with this report is a copy of a letter from W. Michael McCabe, Regional Administrator for the United States Environmental Protection Agency. Much to Mr. Stickels' surprise, Mr. McCabe said that upon reviewing the County's request questioning the original bill the County has received of \$344,000.00, it has been discovered that EPA has incurred an additional \$460,114.16 cost associated with activities by EPA at the Laurel Landfill. Mr. McCabe's letter states that such activities include sampling of groundwater and soil and a search for additional potential responsible parties at the site. Mr. McCabe has requested that the County provide EPA with a list of County costs for the site. Once EPA has reviewed its own costs and the County's costs, they are willing to start meaningful negotiations that could lead to a resolution of the County's Superfund liability at this site.

Mr. Stickels will be forwarding copies of Mr. McCabe's letter and his response to Congressional representatives.

Adminis-  
trator's  
Report  
(con't)

3. Sussex County Transportation Policy Advisory Committee

The Delaware Department of Transportation has established the following schedule of meetings for the Sussex County Transportation Policy Advisory Committee:

Wednesday, November 8	TPAC Organizational Meeting Georgetown
Tuesday, November 14	Eastern County Public Workshop Georgetown
Thursday, November 16	Western County Public Workshop Seaford
Tuesday, November 21	TPAC Debriefing and Response Meeting, Georgetown
Wednesday, December 6	Public Informational Meeting Georgetown

All meetings will be held at 7:00 p.m. Meetings in Georgetown will be held in the County Council Chambers. The meeting scheduled for Seaford will be held at the Seaford Fire Hall. All meetings will be open to the public.

6. Mitchell v. Sussex County and County Seat Materials

On November 3, 1995, the Delaware Supreme Court refused to consider the interlocutory appeal of the Appellants towards the proposed asphalt plant at the Sussex County Airport/Industrial Park. The Plaintiffs have asked Supreme Court to overrule the earlier decision of the Court of Chancery. The Court of Chancery had ruled in favor of the County regarding the asphalt plant being a nuisance and with respect to the argument that the arrangement by which a royalty is paid to Sussex County by County Seat Materials as part of the rent was unconstitutional. With Supreme Court refusing to hear those arguments at this time, the Court of Chancery decision remains in favor of the County. Supreme Court may revisit these issues once all lower court decisions have been completed.

Two issues still remain to be decided. The one issue is in the Court of Chancery regarding the Freedom of Information Act. This decision will be stayed until the Delaware Supreme Court has made a decision on the Board of Adjustment's action approving this project.

To date, all decisions regarding the Plaintiffs' charges have been ruled in favor of the County and County Seat Materials.

Pension Fund Committee Recommendation Mr. Baker, Finance Director, was present to advise Council that on October 27, 1995, the Pension Committee met to interview four firms for investment manager services. The four firms interviewed were Dean Witter, Fidelity Investments, First Financial Resources, and Merrill Lynch. At a meeting on November 3, 1995, the Pension Committee reviewed and discussed the four proposals. Mr. Baker shared this information with Council, including: a "Total Return Analysis Net of Costs" Schedule; three schedules of Top 25 mutual funds from Morningstar Incorporated, an independent firm which compares and analyzes mutual funds; risk analysis; costs; and references. The Committee rated Fidelity Investments' proposal first. The Committee felt that the Fidelity Investments' proposal offered the highest return, with the lowest risk level and the lowest cost. References for Fidelity were good. Fidelity Investments is one of the largest mutual fund companies in the country. The mutual funds that they have recommended are rated very highly. Fidelity is one of the firms recommended by Mr. Gefaell, the County's Investment Advisor. The Committee recommends, based on their analysis, that Fidelity Investments be contracted to invest the County's 1995 Pension Fund contribution.

M 492 95 A Motion was made by Mr. Stevenson, seconded by Mr. Collins, Authorize that the Sussex County Council authorizes an Agreement with Fidelity Investments to invest Sussex County Council's Fiscal 1996 pension contribution amount, as recommended by the Sussex County Council Pension Committee.

Fidelity Investments Motion Adopted: 5 Yea.

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

Progress Report on Sussex County Administrative Office Building Mr. DiGiuseppe, County Administrative Office Building Inspector, and Mr. Archut, Director of Planning and Permits, provided Council with an update on the progress of the construction work on the Sussex County Administrative Office Building, including time used, work completed and future work planned. Mr. DiGiuseppe reported that as of October 31, 1995, the percentage of time used on the project was 31% and the percentage of work completed was 15.8%. To date, the estimated amount of work accomplished by the general contractor is as follows:

Demolition of the old post office building.	85%
Old post office roof.	95%
The new building including reinforcing steel, concrete work, footings.	85%
Basement walls.	90%

Progress Report (con't) The contractor is presently erecting structural steel. Mr. Archut reported that the contract completion date is September 28, 1996; the contractor's schedule shows the completion date as October 15, 1996. The contractor claims that they can make up the difference. Currently, it is estimated that the project is six weeks behind schedule.

Public Hearing of Clerk of Peace Fees A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE V, OF THE CODE OF SUSSEX COUNTY, TO AMEND THE FEES CHARGED BY THE CLERK OF PEACE OF SUSSEX COUNTY". The Proposed Ordinance, once enacted, will amend the fee for the issuance of a marriage license from \$20.00 to \$30.00 and will amend the fee for a certified copy of a marriage license from \$5.00 to \$6.00. There were no public comments and the Public Hearing was closed.

M 493 95 Adopt Ordinance No. 1063 A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to Adopt Ordinance No. 1063 entitled "AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE V, OF THE CODE OF SUSSEX COUNTY, TO AMEND THE FEES CHARGED BY THE CLERK OF PEACE OF SUSSEX COUNTY", effective December 1, 1995.

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 Tabled The agenda item entitled "West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District - Contract D - Change Order No. 5" was tabled.

Agreement/Jiffy Lube Mr. Green, Director of Utility Construction, discussed a Construction Administration and Construction Inspection Agreement for Wastewater Installation at Jiffy Lube in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 494 95 Execute Agreement/Jiffy Lube 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 Council and J.W. Shockley & Sons, Inc. for wastewater facilities to be constructed at Jiffy Lube located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

M 494 95 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

Beaver Mr. Izzo, Director of Public Works, advised Council of the  
Dam referendum results regarding Beaver Dam Heights, Sections  
Heights I & II, Proposed Streetlighting District, as follows:

Proposed Street- lighting District	Number Voting in Support of the District	29
	Number Voting in Opposition of the District	19

Refer- The results of the referendum certify the approval of the  
endum Beaver Dam Heights, Sections I & II, Proposed Streetlighting  
Results District. Mr. Izzo reviewed a Proposed Resolution entitled  
"A RESOLUTION ESTABLISHING BEAVER DAM HEIGHTS, SECTIONS I & II,  
STREETLIGHTING DISTRICT".

M 495 95 A Motion was made by Mr. Cole, seconded by Mr. Collins, to  
Adopt Adopt Resolution No. R 018 95 entitled "A RESOLUTION ESTAB-  
Resolu- LISHING BEAVER DAM HEIGHTS, SECTIONS I & II, STREETLIGHTING  
tion DISTRICT".

No.  
R 018 95 Motion Adopted: 5 Yea.

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

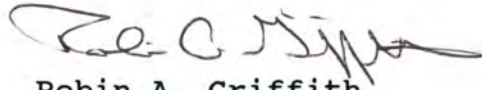
Proposed Mr. Cole introduced the Proposed Ordinance entitled "AN  
Ordinance ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX  
COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A  
C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND  
LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CON-  
TAINING 5.61 ACRES, MORE OR LESS" (Change of Zone No. 1268)  
filed on behalf of Gerald and Emily Hocker. The Proposed  
Ordinance will be advertised for Public Hearing.

Proposed Mr. Cole introduced the Proposed Ordinance entitled "AN  
Ordinance 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 LEWES AND REHOBOTH HUNDRED, SUSSEX  
COUNTY, CONTAINING 0.80 ACRES, MORE OR LESS" (Change of  
Zone No. 1269) filed on behalf of Ellen W. Graves. The  
Proposed Ordinance will be advertised for Public Hearing.

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M 496 95 A Motion was made by Mr. Cole, seconded by Mr. Collins, to  
Adjourn adjourn at 11:30 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council