

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-NOVEMBER 19, 1991

Call to
Order

The regular meeting of the Sussex County Council was held on Tuesday, November 19, 1991, at 10:00 a.m. in the Council Chambers, Courthouse, Georgetown, Delaware, with the following members present:

Dale R. Dukes	President
Ralph E. Benson	Vice President
George B. Cole	Member
George J. Collins	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 489 91
Approval
of Minutes

A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to approve the minutes of the previous meeting as submitted. Motion Adopted by Voice Vote.

Corre-
spondence

Mr. Bayard, County Attorney, read the following correspondence:

CHARLES H. BRODIE, BLADES

RE: Thanks for Certificate of Appreciation and cash award (\$50 U.S. Savings Bond) received for participating in the County's Recycling Program during the month of October.

GEORGE H. BUNTING, JR., STATE REPRESENTATIVE, 38TH DISTRICT, DOVER

RE: Requesting the Community Development Block Grant initially allocated to Selbyville proper, given to the County Community Block Grant fund for distribution when an Agreement could not be reached with Selbyville, be used for funding infrastructure improvements in a minority subdivision outside Selbyville.

Mr. Stickels, County Administrator, will secure additional information concerning the subdivision and report his findings to Council at a later date.

ANDREW G. KNOX, CHAIRMAN, GOVERNOR'S INTERNATIONAL TRADE COUNCIL, WILMINGTON

RE: Thanks for help in making the Yucatan Delegation's visit to Delaware a success.

KENT COUNTY MOTEL & HOTEL ASSOCIATION

RE: Opposing an increase in the Delaware lodging tax.

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Corre-
spondence
(Con't.)

DELAWARE RIVER BASIN COMMISSION, NEW JERSEY
RE: Notice of Public Hearing and Special Commission Meeting, to be held at the Commission's Office in Trenton, New Jersey, on November 25, 1991, starting at 10:00 a.m. The purpose of this hearing is to permit the public to comment on Section 10.4 of the Delaware River Basin Compact which provides for possible drought emergency declaration.

Community
Develop-
ment
Block
Grant
Policies

Mr. Stickels, County Administrator, reviewed the Delaware State Housing Authority's draft for FY '92 Community Development Block Grant policies. The draft's priorities were reviewed and highlighted as follows: 1.3 million dollars for Sussex and Kent Counties; 40-70 percent for maintenance of existing housing; and, 30-60 percent for infrastructure for housing development and maintenance. Mr. Lecates, Community Development Director, advised that each application competes on its own merit; however, applications from towns that have increased the number of low income dwelling units by the State's definition will receive top priority. The County Community Development Office designates housing rehabilitation as a "top priority" item. Mr. Lecates will be meeting with the towns in the next few weeks to offer guidance in preparation for grant requests and get their input on issues.

M 490 91
Support
FY '92
CDBG
Policies

A Motion was made by Mr. Collins, seconded by Mr. Cole, that the Sussex County Council support the Delaware State Housing Authority's draft FY '92 Community Development Block Grant policies and Community Development Plan based upon the recommendation made by the County Administrator and the Sussex County Director of Community Development. Motion Adopted: 5 Yea.

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

County
Road
No. 303

The closing of County Road No. 303, located in the Long Neck area in the vicinity of Route 5 and Route 24, was discussed again. Mr. Stickels, County Administrator, reported that the traffic count revealed 57 trips per day. DelDOT will hold a Public Hearing on the closing on Friday, November 22, 1991, and after that the Secretary of the Department has the authority to close the road.

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M 491 91
Oppose
Vacation
of County
Road
No. 303

A Motion was made by Mr. Collins, seconded by Mr. Cole, that the Sussex County Council oppose the vacation of County Road No. 303 based upon the current zoning of the adjoining land (General Residential) and the potential for future use of the roadway. Motion Adopted: 4 Yea; 1 Not Voting.

Vote by Roll Call: Mr. Benson, Not Voting; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

County
Road
No. 299

Mr. Stickels, County Administrator, advised that he had received a letter from DelDOT concerning the closing of County Road No. 299. The letter responded to Council's request that the Resolution setting out conditions agreed upon by Townsend Properties, Inc. make a road available within 100 feet of the grave site. DelDOT advised that it was their opinion Townsend Properties, Inc. had been more than fair by agreeing with the "WHEREAS" clauses in last week's Resolution. Monitoring the site plan for accessibility to the grave site will be done by the Planning and Zoning Commission.

Proposed
Ordinance

Mr. Dukes introduced Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115, THE CODE OF SUSSEX COUNTY, DELAWARE, BY AMENDING ARTICLE IV AND TABLE I RELATING TO LOT AREA IN AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS." The Proposed Ordinance will be advertised for Public Hearing.

Adminis-
trator's
Report

Mr. Stickels, County Administrator, reviewed the following information included in his Administrator's Report:

1. Correspondence - Delaware Department of Transportation
- A letter from Mark A. McNulty, Director, Delaware Transportation Authority, requests names of individuals interested in serving on a planning committee for transportation control measures. Amendments to the Clean Air Act by the United States Congress mandates that states take significant steps toward improving the nation's air quality by the year 1996. By November of 1992, each state will have to supply the United States Environmental Protection Agency an implementation plan. Mr. Thomas Shockley, a member of the Advisory Committee for Handicapped and Aging Citizens, was selected to be that group's representative. Mr. Frank Calio, Airport and Industrial Park Director, will serve on the County Government level. Additional recommendations from Council members should be made by Friday, November 22, 1991.

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Adminis-
trator's
Report
(Con't.)

2. Correspondence - Department of Correction - Mr. Robert J. Watson, Commissioner for the Department of Correction, requested names from the County of anyone interested in serving on an advisory group to serve as a link between the Department and the community. Members of the group can serve as an independent resource group with whom administrators can review programs and they can act as advocates for the community. Recommendations for the advisory group should be submitted by Friday, November 22, 1991.

C/U #986

Conditional Use No. 986, filed on behalf of Kuhn Family Sussex Partnership, was discussed. Public Hearing was held on October 29, 1991, and action was deferred.

M 492 91
Proposed
Ordinance
C/U #986
(Denied)

A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MATERIAL AND EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.84 ACRES, MORE OR LESS" (C/U #986) filed on behalf of Kuhn Family Sussex Partnership. Motion Denied: 4 Nay; 1 Not Voting.

Vote by Roll Call: Mr. Benson, Nay; Mr. Cole, Not Voting;
Mr. Collins, Nay; Mr. Stevenson, Nay;
Mr. Dukes, Nay

Findings
of Fact
C/U #986

The Council found that the conditional use was not appropriate legislative action based upon the following findings of fact:

1. The applicant failed to establish by substantial evidence that the conditional use was consistent with the character of the neighborhood, would not have an adverse impact on property values therein, and would not have an adverse impact on traffic or the environment in the neighborhood.
2. The proposed conditional use is not consistent with the purposes of the Comprehensive Zoning Ordinance or the Coastal Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

November 19, 1991

C/Z #1140

Change of Zone No. 1140, filed on behalf of Walter T. and Bonnie L. Dashiell, was discussed. Public Hearing was held on October 29, 1991, and action was deferred.

M 493 91
Proposed
Ordinance
C/Z #1140
(Denied)

A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt 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 1.45 ACRES, MORE OR LESS" (C/Z #1140) filed on behalf of Walter T. and Bonnie L. Dashiell. Motion Denied: 4 Nay; 1 Not Voting.

Vote by Roll Call: Mr. Benson, Nay; Mr. Cole, Not Voting;
Mr. Collins, Nay; Mr. Stevenson, Nay;
Mr. Dukes, Nay

Findings
of Fact
C/Z #1140

The Council found that the change of zone was not appropriate legislative action based upon the following findings of fact:

1. The applicant failed to establish by substantial evidence that the proposed change of zone was consistent with the character of the neighborhood, would not have an adverse impact on property values therein, and would not have an adverse impact on traffic or the environment in the neighborhood.
2. The proposed change of zone is not consistent with the purposes of the Comprehensive Zoning Ordinance or the Western Land Use Plan.

Long Neck
SSD

Mr. Green, Utility Construction Division Director, reviewed a recapitulation to date for Contract No. 5 for the Long Neck Sanitary Sewer District, including Change Order No. 6 being addressed today.

M 494 91
Contract
No. 5
Long Neck
SSD

A Motion was made by Mr. Cole, seconded by Mr. Collins, based upon the recommendation of the Inspection Engineer, KCI Technologies, Inc., and the Sussex County Engineering Department, that the Sussex County Council President be authorized to issue Change Order No. 6 for the Long Neck Sanitary Sewer District, Contract No. 5, to Renda Contracting Co., Inc. for the installation of a six inch and ten inch lateral from the Pumping Station No. 80 site, increasing this contract amount to \$2,235,380.68. Motion Adopted: 5 Yea.

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M 494 91
(Con't.)
Long Neck
SSD

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

Long Neck
SSD

Mr. Green, Utility Construction Division Director, reviewed a recapitulation to date for Contract No. 6 for the Long Neck Sanitary Sewer District, including Change Order No. 12 being addressed today.

M 495 91
Contract
No. 6
Long Neck
SSD

A Motion was made by Mr. Benson, seconded by Mr. Cole, based upon the recommendation of the Inspection Engineer, KCI Technologies, Inc., and the Sussex County Engineering Department, that the Sussex County Council authorize the President of the Sussex County Council to issue Change Order No. 12 for the Long Neck Sanitary Sewer District, Contract No. 6, to L. A. Merrell Construction Company, Inc. for the installation of a more aesthetically acceptable entrance sign, and the deletion of a duplicate well pump control panel for a zero cost increase, and the unchanged contract sum of \$5,197,117.38. Motion Adopted: 5 Yea.

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

Developer
Negotiation
Agreement

Mr. Archut, Planning and Permits Division Director, discussed the purpose for a Proposed Ordinance to Amend Chapter 110 of the Code of Sussex County, relating to the extension of public water and/or sewer systems. As a way of history, in February, 1990, Council entered into a contract with Black and Veatch for negotiation assistance in establishing a backbone transmission system for the South Coastal Planning Area. The Proposed Ordinance addresses the cost to be borne by the developer for the system; establishes an inspection procedure; and, provides the method for reimbursement.

Proposed
Ordinance

Mr. Dukes introduced Proposed Ordinance entitled "AN ORDINANCE AMENDING CHAPTER 110 OF THE CODE OF SUSSEX COUNTY, DELAWARE, RELATING TO EXTENSION OF PUBLIC WATER AND/OR SEWER SYSTEMS." The Proposed Ordinance will be advertised for Public Hearing.

Dagsboro-
Frankford
SSD

Mr. Archut, Planning and Permits Division Director, advised that the Engineering Department had finished negotiations with George, Miles and Buhr for the Construction Administration and Construction Coordination Services Agreement for the Dagsboro-Frankford Sanitary Sewer District.

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M 496 91
George,
Miles and
Buhr Agree-
ment
Dagsboro-
Frankford
SSD

A Motion was made by Mr. Collins, seconded by Mr. Stevenson, that the President of the Sussex County Council be authorized to execute an Agreement in the amount of \$585,263 with George, Miles and Buhr to perform Construction Administration and Construction Coordination Services for the Dagsboro-Frankford 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

West
Rehoboth
Expansion
Phase 1A

Mr. Wood, County Engineer, advised that negotiations with George, Miles and Buhr, Inc. for the Construction Administration and Construction Coordination of Phase 1A of the West Rehoboth Expansion Project had been completed.

M 497 91
George,
Miles and
Buhr
Contract
West Reho.
SSD
Phase 1A

A Motion was made by Mr. Cole, seconded by Mr. Collins, based upon the recommendation of the Engineering Department, that the Council President be authorized to enter into a Contract with George, Miles and Buhr, Inc. for the Construction Administration and Construction Coordination of Phase 1A of the West Rehoboth Expansion Project for an amount not to exceed estimated total of \$314,165. Motion Adopted: 5 Yea.

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

Policy
Clarific-
ation

Mr. Stickels, County Administrator, discussed a possible procedure for clarifying the intent of the Council's policy relating to land use ordinances included in Chapter 115 of the County Code and adopted November 5, 1991, that stated "all land use ordinances shall be prepared by County staff upon the request of the Council President, with the consent of the County Council."

M 498 91
Rescind
and Adopt
Policy -
Ordinances

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, that the Sussex County Council rescind the policy regarding preparation of land use ordinances relating to Chapter 115 of the Code of Sussex County, adopted on Tuesday, November 5, 1991, and adopt the following procedure in lieu thereof:

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M 498 91
Policy
(Con't.)

Preparation of any ordinance by County staff shall be done at the direction of the County Administrator. It shall be County policy that any ordinances that fail to receive passage shall not be readdressed by County staff for a period of one year from the date of failure of same.

Mr. Benson withdrew his motion. The second was not withdrawn by Mr. Stevenson; therefore, Council was advised by the County Attorney that a vote was in order.

Motion Adopted: 4 Yea; 1 Not Voting.

Vote by Roll Call: Mr. Benson, Not Voting; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

Zoning
Procedures

The Proposed Ordinance relating to zoning procedures, deferred at County Council's Public Hearing on January 15, 1991, will be placed on the Agenda next week for discussion.

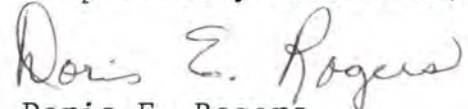
Proposed
Ordinance
C/Z #1147

Mr. Cole introduced 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.95 ACRES, MORE OR LESS" (C/Z #1147) filed on behalf of Glenn M. Gray, executor of the estate of Madison M. Gray. The Proposed Ordinance will be advertised for Public Hearing.

M 499 91
Adjourn

A Motion was made by Mr. Stevenson, seconded by Mr. Cole, to adjourn at 12:03 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Doris E. Rogers
Clerk of the County Council