

SUSSEX COUNTY COUNCIL-GEORGETOWN, DELAWARE-NOVEMBER 23, 1993

Executive Session

An Executive Session of the Sussex County Council was held on Tuesday, November 23, 1993, at 9:10 a.m., in the Council Chambers, Courthouse, Georgetown, Delaware, for the purpose of discussing land acquisition. The Executive Session concluded at 9:40 a.m.

Call to Order

The regular meeting of the Sussex County Council was held on Tuesday, November 23, 1993, 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 492 93
Approve Minutes

A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to approve the minutes of the previous meeting dated November 16, 1993. Motion Adopted by Voice Vote.

Correspondence

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

CHARITY LODGE NO. 27, I.O.O.F., LAUREL, DELAWARE
RE: Thanking Councilman Collins for the financial donation that will be used for their "Sick Room Equipment Fund".

SHERRY DAISEY AND MARY ANN MCCRAE, PARENT ADVISORS, PIRATE PRIDE, LEWES MIDDLE SCHOOL, LEWES, DELAWARE
RE: Request for financial assistance to allow students to attend the "1994 PRIDE World Drug Conference" in Philadelphia, Pennsylvania.

U. S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT, PHILADELPHIA, PENNSYLVANIA
RE: Solicitation of public comments and recommendations for a Department of the Army permit. Applicant: Keenwick Sound Homeowners Association, Selbyville, Delaware.
Waterway: Roy Creek.

Carolling On The Circle

Mr. Stickels, County Administrator, introduced Mrs. Kay Dukes and Mrs. Toni Pfaff who were present to discuss Carolling on the Circle. This year's celebration is being sponsored by the Sussex County Council and will be held on

(Con't.) December 13, 1993 at 7:00 p.m. Mrs. Dukes and Mrs. Pfaff were dressed in 1800 attire to symbolize this year's theme, "An Old-Fashioned Christmas on The Circle". In the spirit of past Carolling on The Circle festivities where food drives were held, Mrs. Dukes and Mrs. Pfaff presented Council with canned plums and peaches as the first donations for this year's food drive. Council was also presented with the proposed list of activities scheduled for the evening.

Slam
Dunk To
The
Beach
Basket-
ball
Tourna-
ment

Mr. Stickels, County Administrator, introduced Mr. Robert Jacobs, Executive Director of the Slam Dunk to the Beach Basketball Tournament. Mr. Jacobs reported to Council that the fourth annual Slam Dunk to the Beach Basketball Tournament will be held on December 28, 29, and 30, 1993, at the Cape Henlopen High School in Lewes, Delaware. Mr. Jacobs presented a video that is used around the Country to solicit corporate sponsors. The main purpose of the tournament is to raise funds for student athlete scholarships. Mr. Jacobs stated that during the past three years, \$65,000 in scholarship money has been awarded for this purpose. Attendance at this year's 3-day tournament is expected to reach 30,000. Each school participating in the tournament is guaranteed to receive a minimum of \$1,000, but the amount awarded to the individual schools has always been in excess of this amount. Mr. Jacobs explained that teams from all over the United States will participate in this year's tournament, which will include 24 games over the three day period.

Land Use
Consul-
tant
Selec-
tion

Mr. Stickels, County Administrator, informed Council that on Friday, November 19, 1993, the Land Use Consultant Selection Committee (Peter A. Jones, Esquire; Lawrence Lank, and Robert L. Stickels) held interviews to select a consultant to incorporate the Western Sussex Land Use Plan and Coastal Sussex Land Use Plan into one comprehensive Land Use Plan. Interviews were held with Whitman, Requardt and Associates; Whitney, Bailey, Cox & Magnani; and Wiles Dailey Pronske & Associates. Evaluation criteria included: experience and reputation, expertise for particular project; capacity to meet requirements (size, financial condition); location (geographical); demonstrated ability; familiarity with public work, its requirements and system; and distribution of work to individuals and firms. The scope of services will require the comparison of the existing Coastal Sussex Land Use Plan and the Western Sussex Land Use Plan and extraction of all pertinent data; information and criteria necessary to upgrade the two plans into one Land Use Plan and all other services required to

(Con't.)

comply with the Delaware Quality of Life Act in 9 Del. C. Sec. 6951 and supporting Ordinances.

M 493 93
Enter into
Contract
with
Whitman,
Requardt &
Associates
(Land Use
Consultant)

A Motion was made by Mr. Cole, seconded by Mr. Collins, that based on the recommendation of the Land Use Consultant Selection Committee, the County Council authorizes the County Administrator to negotiate a contract with Whitman, Requardt and Associates to develop a land use document and supporting ordinances.

Motion Adopted: 5 Yea.

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

Delaware
Health
Corporation
Project

Gerard W. Farrell, Esquire, of Saul, Ewing, Remick, and Saul, was in attendance to discuss the passage of a Resolution entitled "RESOLUTION OF INTENTION TO ISSUE \$32,000,000 HEALTHCARE FACILITY REVENUE BONDS (DELAWARE HEALTH CORPORATION PROJECT)". This Resolution of Intention would express the County's intent to issue Industrial Revenue Bonds to Delaware Health Corporation. The Revenue Bonds would be used by Delaware Health Corporation to purchase: (1) a 179-bed nursing facility known as "Harbor Healthcare & Rehabilitation Center" located at 301 Ocean View Boulevard, Lewes, Sussex County, Delaware, and (2) a 150-bed nursing facility known as "Parkview Nursing Center" located at 2801 West 6th Street, Wilmington, Delaware. A Public Hearing is scheduled for Tuesday, December 7, 1993, at 10:30 a.m. in Council Chambers regarding the County's possible adoption of an Ordinance approving the application and authorizing the issuance of such bonds. Mr. David Baker, Chairman of the Commercial, Industrial and Agricultural Revenue Bond Review Committee, reported that the Committee met on Monday, November 22, 1993, to review the application of the Delaware Health Corporation. It is the Committee's recommendation to proceed with this application and adopt the Resolution of Intention. The passage of this Resolution would assist the Delaware Health Corporation in proceeding with this Project, subject to approval by New Castle County, by merely expressing the County's intent to issue these bonds.

M 494 93
Adopt
Resolution
No. R 022 93

A Motion was made by Mr. Collins, seconded by Mr. Benson, to adopt Resolution No. R 022 93 entitled "RESOLUTION OF INTENTION TO ISSUE \$32,000,000 HEALTHCARE FACILITY REVENUE BONDS (DELAWARE HEALTH CORPORATION PROJECT)".

Adopt
Resolution
(Delaware
Health
Corporation)

Motion Adopted: 5 Yea.

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

Adminis-
trator's
Report

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

1. Thanksgiving Day Holiday

County offices will be closed Thursday, November 25, and Friday, November 26, in observance of Thanksgiving Day. County government offices will reopen at 8:30 a.m. on Monday, November 29, 1993.

2. Sussex County Transfer Stations

The County has received notice from Richard A. Folmsbee, Program Manager, Solid Waste Branch, that the Department of Natural Resources and Environmental Control (DNREC) has completed an inspection of the six Sussex County transfer stations that were closed for operation on June 30, 1993. DNREC has certified that the County has fulfilled the conditions of the permit and the transfer stations have been properly closed. It should be noted that the closure certification does not release the County from future liability attributable to the previous operation of the six sites as landfills.

3. Sussex County v. Bertrand

Chancellor Allen of the Court of Chancery of the State of Delaware released a ruling on Wednesday, November 17, 1993, reference Sussex County v. Bertrand. The Court has signed an Order requiring the Bertrands to begin to bring the property into compliance with County zoning provisions within 60 days. The Order further provides that the Bertrands shall continue to work on the premises in a regular manner at least on a monthly basis. Finally, the Order provides that if the Bertrands fail to bring the property into compliance within six months of the date of the Order, Sussex County is authorized to accept bids to do the work. Following completion of the work, if the Bertrands fail to pay for the cost of demolition, Sussex County has the right to sell the property at public sale. It appears that this public nuisance will finally be brought to a conclusion. The Sussex County Council

(Con't.)

first attempted to bring litigation against the property owners in 1986.

Fenwick
Island
Water
District
Referendum

Mr. Russell Archut, Director of Planning and Permits, appeared before Council to report that the referendum for the Proposed Fenwick Island Water District was held on Saturday, November 20, 1993. Mr. Archut reported that the referendum was defeated 530 to 278, which also includes all absentee ballots. Mr. Stickels informed the Council that approximately \$88,500 has been spent on this project. The General Fund will be reimbursed by the Realty Transfer Tax for this cost. The Project will be closed out.

West Reho-
both Exp.
of Dewey
Beach SSD/
Proposed
Agreement
with
George,
Miles &
Buhr

Mr. Robert Wood, County Engineer, discussed entering into a proposed construction administration and construction coordination contract for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District with George, Miles and Buhr. Also in attendance was James R. Thomas, Jr., P.E., of George, Miles & Buhr. Mr. Wood reported that the collection and transmission contracts are proposed to be completed by September 1995, along with the treatment and disposal facility. The total cost of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District Project is projected to be \$75,961,000. Mr. Wood reported that minor revisions remain to be incorporated into the proposed contract with George, Miles & Buhr, which pertain to the insurance and liability sections.

M 495 93
Execute
Agreement
Between
County and
George,
Miles &
Buhr/West
Rehoboth
Expansion
of Dewey
Beach SSD

A Motion was made by Mr. Cole, seconded by Mr. Collins, that based upon the recommendation of the Engineering Department that the Council President be authorized to enter into a contract agreement with George, Miles & Buhr for construction administration and construction coordination of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District for the amount not to exceed \$3,921,573, pending approval and incorporation of recommended changes to insurance and indemnity provisions.

Motion Adopted: 5 Yea.

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

Old
Business
C/U
#1036

Conditional Use No. 1036, filed on behalf of Padula Construction, was discussed. A Public Hearing was held on this application on June 1, 1993, at which time the Public Hearing was closed and action was deferred.

M 496 93
Adopt
Ordinance
No. 937
(C/U No.
1036)
With
Stipula-
tions

A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adopt Ordinance No. 937 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION STORAGE YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.07 ACRES, MORE OR LESS" (C/U #1036) filed on behalf of Padula Construction, with the following stipulations:

1. Approval is contingent on review of the site plan by the Planning and Zoning Commission;
2. Site would be limited to storage of 10 pieces of construction equipment;
3. No fuel tanks are to be buried on-site;
4. Site is to be used solely by one contractor;
5. Construction of a stockade fence shall be required for property facing road;
6. Approval is limited to five years;
7. No inoperable equipment shall be stored on-site; and
8. Materials stored on-site shall be limited to stone and topsoil.

Motion Adopted: 5 Yea.

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

Finding
of Fact
C/U No.
1036

The Council found that the conditional use was appropriate legislative action based upon the following finding of fact:

1. The use has been in existence for 10 years and the proposed conditions will ensure the health, safety and morale of the present and future inhabitants of Sussex County.

Proposed
Ordinance
Relating
To Land-
scaped
Buffer
Strips

Council discussed a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY RELATING TO THE ESTABLISHMENT OF LANDSCAPED BUFFER STRIPS". The Planning and Zoning Commission held a Public Hearing on October 25, 1990, and recommended approval of the Ordinance as written. County Council held a public hearing on November 13, 1990, at which time action was

(Con't.)

deferred and the record was left open for two weeks for written comments. County Council discussed the Ordinance again on January 15, 1991, and requested that the Ordinance be revised in reference to the definition of Agricultural Use Land, maintenance easements, and references to subdivision of five lots. A revised Ordinance was submitted by the County Attorney on January 30, 1991. To date, County Council has taken no action. Mr. Lank reported that on June 15, 1993 Council adopted Ordinance No. 893 entitled "AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY RELATING TO THE ESTABLISHMENT OF FORESTED BUFFER STRIPS ADJACENT TO AGRICULTURAL FARMLAND". Mr. Lank stated that Ordinance No. 893 addresses the concerns and issues that are raised in the proposed Ordinance being presented to Council today. Consequently, it is both Mr. Lank's and Mr. Stickels' recommendation that the Ordinance before Council be voided.

M 497 93
Adopt
Proposed
Ordinance
(Land-
scaped
Buffer
Strips)
DENIED

A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY RELATING TO THE ESTABLISHMENT OF LANDSCAPED BUFFER STRIPS".

Motion Denied: 5 Nay.

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

Setbacks
Required
for
Composters
(Proposed
Ordinance)

Councilman Collins questioned Mr. Lank regarding the required setbacks for composters. It is Councilman Collins' intent that identical setbacks be required of composters that are currently being required of poultry houses. Mr. Lank stated that an Ordinance would be necessary to address these concerns and a Public Hearing would have to be held. Mr. Lank will draft a proposed Ordinance and present such to Council at a later date.

M 498 93
Adjourn

At 11:50 a.m., a Motion was made by Mr. Cole, seconded by Mr. Benson, to adjourn. Motion Adopted by Voice Vote.

Respectfully submitted,

Nancy Cordrey

Nancy J. Cordrey
Acting Clerk of the County Council