

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 10, 1996

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, December 10, 1996, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
George J. Collins	Vice President
Ralph E. Benson	Member
George B. Cole	Member
William D. Stevenson	Member

M 525 96      A Motion was made by Mr. Collins, seconded by Mr. Cole, to Adopt Agenda      Adopt the Agenda, as presented.

Motion Adopted: 5 Yea.

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

M 526 96      A Motion was made by Mr. Collins, seconded by Mr. Cole, to Amend and Approve Minutes      amend the minutes of December 3, 1996, striking the "Yea" vote of Mr. Dukes on Change of Zone No. 1290, an application of Bethany Proper, L.P. and inserting "Abstained", and Be It Further Moved to Adopt the minutes as amended. (Mr. Dukes abstained from voting on this application due to a possible conflict of interest.) Motion Adopted by Voice Vote.

Set Policy      It was the decision of Council to set policy that, in the future, Council members should announce that they have a possible conflict of interest prior to a Public Hearing commencing.

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

DELAWARE HOSPICE, GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

CAPE HENLOPEN SENIOR CENTER, REHOBOTH BEACH, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

SECOND STREET PLAYERS, MILFORD, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

INTERFAITH MISSION OF SUSSEX COUNTY, INC., OCEAN VIEW, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

AMERICAN CANCER SOCIETY, GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

LEWES SENIOR CITIZENS CENTER, INC., LEWES, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

Corre- THE DELAWARE AGRICULTURAL MUSEUM AND VILLAGE, DOVER, DELAWARE.  
spondence RE: Letter in appreciation of Human Service Grant.  
(Con't)

GERIATRIC SERVICES OF DELAWARE, INC., GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

CONTACT DELAWARE, MILFORD, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

READ-ALOUD DELAWARE, GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW JERSEY.  
RE: Notice of Commission Meeting and Public Hearing on  
a Proposal to Adopt the 1996-1997 Water Resources Program  
and on applications for approval of several projects, none  
of which are located in Sussex County.

Mayor Richard E. Small, Mayor, The Town of Laurel, Laurel,  
Delaware.  
RE: Long Range Water Facilities Plan.

Request Mrs. Beatrice Simonds, Member of the Board of Directors  
for of the Delaware State Police Museum, Inc., was in attendance  
Funds/ to solicit funding from County Council for the Delaware  
Delaware State Police Museum and Education Center to be located in  
State Dover, Delaware. The construction of the Delaware State  
Police Museum and Education Center will provide Delaware's  
Museum citizens and visitors with a centrally located tourism and  
educational facility designed to foster both better relations  
and a more thorough understanding of law enforcement and public  
safety by the many visiting youth and adults. Council will  
take this request under advisement.

1996 Mr. Stickels, County Administrator, reported that a letter  
Volume has been received from Secretary Jackson, State of Delaware,  
Cap Department of Finance, requesting that any portion of the  
Reassign- 1996 Volume Cap assigned to Sussex County which will not be  
ment allocated either to a qualified project prior to year-end  
or identified as eligible for carry forward be reassigned  
to the State for reallocation between the Delaware State  
Housing Authority and/or Delaware Economic Development  
Authority. This request is being made to allow the State  
to maximize the usage of its 1996 Private Activity Bond  
Volume Cap. The State assigned \$15,000,000 to Sussex  
County for Industrial Revenue Bonds in 1996. Mr. Stickels  
recommended that the Council authorize the reassignment of  
the \$15,000,000 1996 Volume Cap allocation.

M 527 96 A Motion was made by Mr. Stevenson, seconded by Mr. Collins,  
Authorize that the Sussex County Council authorizes the reassignment  
Reassign- of the \$15,000,000 1996 Volume Cap Allocation as requested  
ment by the State of Delaware, Department of Finance.

M 527 96 Motion Adopted: 5 Yea.  
(Con't)

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

Septage Re-  
ceiving Program Ms. Sheridan, Director of Operations at the South Coastal Regional Wastewater Facility discussed a proposed rate hike for septage receiving at the South Coastal Regional Wastewater Facility and the Inland Bays Regional Wastewater Facility. Currently, the rates are 2 ½ cents per gallon on weekdays and 4 cents per gallon on weekends and holidays. Ms. Sheridan proposed that rates be increased to 4 cents per gallon on weekdays and 6 cents per gallon on weekends and holidays. The increase in revenues will be used for debt service and operations.

M 528 96 A Motion was made by Mr. Collins, seconded by Mr. Benson, based upon the recommendation of the Sussex County Engineering Department, that the charges for treatment of septage at Sussex County wastewater facilities be 4 cents per gallon on weekdays and 6 cents per gallon on weekends and holidays effective, January 16, 1997; and Be It Further Moved that these rates will go into effect May 1, 1997, for septage received from the West Re-  
ceiving Re-  
ceiving

Motion Adopted: 5 Yea.

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

Review Policy Mr. Cole requested that staff review the County's procedures for septage receiving and penalties for septage that adversely affects a wastewater facility.

Request/ Grant Mr. Stickels, County Administrator, discussed a request for a Human Service Grant from the Pyle Child Development Center.

M 529 96 A Motion was made by Mr. Cole, seconded by Mr. Benson, to give Human Service Grant \$750.00 from Human Service Grants to the Pyle Child Development Center.

Motion Adopted: 5 Yea.

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

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

Adminis-  
trator's  
Report  
(Con't)

1. Courthouse Relocation

Mr. Stickels would like to publicly thank the employees for their assistance in relocating from the Courthouse to the new Administrative Building. Many employees worked 14-hour days, including Saturday and Sunday, in making the transition. For record-keeping purposes, the first day of business in the new building was Monday, December 9, 1996.

2. Carolling on The Circle

This year Carolling on The Circle efforts raised 11,868 items of food to be distributed for those in need in Sussex County. This is the largest amount of food items that has ever been collected. The Sussex County Manufactured Housing Community, with the assistance of the Sussex County Mobile Home Tenants Association, collected 7,279 items of food. In addition to the mobile home community donation, Sussex Central High School donated 2,072 items, Georgetown Elementary donated 1,050 items, Phillip C. Showell Elementary donated 300 items, and Sussex County employees donated 1,069.

Much of the success of the carolling should be credited to the Carolling on The Circle Committee, consisting of Diana Pettyjohn, Harvey Gregg, Robin Griffith, Dale McDowell, Kevin Short, Helen Walls, Ray Webb, and Dave Wilson.

The items of food that were collected will be distributed to First State Community Action, Crisis House, Trinity United Methodist Church in Bridgeville, and Georgetown Aid, Inc.

3. Retiree Mabel F. Givens

Mr. Stickels informed Council of the passing of Mrs. Mabel F. Givens on Saturday, December 7, 1996. Mrs. Givens retired from the County in 1968 after 30 years of service. During her employment with the County she served as a Planner and Deputy Director of the Sussex County Civil Defense Department, now known as the Sussex County Emergency Operations Center. Services will be held at 2:00 p.m. on Thursday at the Wesland Church of Georgetown on North Bedford Street.

Hook-  
up  
Status  
Report/  
West  
Rehoboth

Mr. Archut, Director of Planning and Permits, provided Council with a Hook-up Status Report for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Hook-ups began On December 29, 1995; all connections must be completed by December 29, 1996. The amount of time that has expired as of December 9, 1996, is 94.5 percent. Four thousand, three hundred and fifty five (4,355) hook-ups were completed as of December 9,

Hook-  
up  
Status  
Report  
(Con't)

1996; this represented 72 percent. Five thousand, nine hundred and forty one (5,941) EDUs hooked up as of December 9, 1996; this represented 75 percent. Those not connected by December 29, 1996, will begin receiving service charge bills effective that date. Mr. Cole recommended that an Appeals Board be established to review hardship cases. It was the consensus of Council that hardship cases be discussed by Council on a case-by-case basis.

Public  
Hearing

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO THE SEWER CAPITALIZATION Fee". There were no public comments and the Public Hearing was closed.

M 530 96  
Adopt  
Ordinance  
No. 1117

A Motion was made by Mr. Collins, seconded by Mr. Cole, to Adopt Ordinance No. 1117 entitled "AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX COUNTY, TO AMEND THE PROVISIONS RELATING TO THE SEWER CAPITALIZATION FEE".

Motion Adopted: 5 Yea.

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

Change  
Order/  
Design-  
Build  
Contract/  
WREDBSSD

Mr. Izzo, Acting County Engineer, discussed Change Order No. 10 for the Design-Build Contract of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. This change order reflects a direct lease between the County and the landowner for the Wolfe Neck Regional Wastewater Facility property; a lease currently included in the Design-Build Contract.

M 531 96  
Approve  
Change  
Order/  
Design-  
Build  
Contract/  
WREDBSSD

A Motion was made by Mr. Collins, seconded by Mr. Benson, based upon the joint recommendation of the Consulting Engineer, George, Miles & Buhr, and the Sussex County Engineering Department, that Change Order No. 10 for the Design-Build Contract of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, with George and Lynch, Inc., be approved as a credit in the amount of \$1,225,000, which reduces the contract total from \$15,960,843 to \$14,735,843.

Motion Adopted: 5 Yea.

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

Maple-  
wood

Mr. Siegmund, Utility Construction Supervisor, discussed Beneficial Acceptance for the wastewater facilities constructed in Maplewood - Phase IV, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 532 96 Grant Beneficial Acceptance/Maplewood 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 grant Beneficial Acceptance for the wastewater facilities constructed in Maplewood - Phase IV, located in the West Rehoboth Expansion of the Dewey Beach 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

Dove Knoll Mr. Siegmund, Utility Construction Supervisor, discussed a Construction Administration and Construction Inspection Agreement between Sussex County Council and Hubert D. Mock, Jr. for wastewater facilities to be constructed in Dove Knoll - Phase IV, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

M 533 96 Approve Agreements/Dove Knoll 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 Hubert D. Mock, Jr. for wastewater facilities to be constructed in Dove Knoll - Phase IV, located in the West Rehoboth Expansion of the Dewey Beach 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

M 534 96 Councilmanic Grant A Motion was made by Mr. Collins, seconded by Mr. Cole, to give \$150 from Mr. Collins' Councilmanic Account to the Laurel Little League for improvements to the Clifford F. Lee Ball Park.

Motion Adopted: 5 Yea.

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

Pending Ordinances It was the consensus of Council that all pending Proposed Ordinances be placed on the December 17, 1996, agenda for consideration.

M 535 96 Recess At 11:45 a.m., a Motion was made by Mr. Collins, seconded by Mr. Cole, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Dukes called Council back into session at 1:30 p.m.

Public Hearing C/U No. 1171 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 AGRICULTURAL OFFICES, OFFICES RELATED TO A TRUCKING OPERATION INCLUDING BUT NOT LIMITED TO REPAIRS, TRUCK AND TRACTOR EQUIPMENT SALES, AND RECYCLED TRUCK WASHING FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 19.56 ACRES, MORE OR LESS" (Conditional Use No. 1171) filed on behalf of Hab Nab Transportation, Inc. The Public Hearing was closed.

M 536 96 Adopt Proposed Ordinance C/U No. 1171 (DENIED) A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AGRICULTURAL OFFICES, OFFICES RELATED TO A TRUCKING OPERATION INCLUDING BUT NOT LIMITED TO REPAIRS, TRUCK AND TRACTOR EQUIPMENT SALES, AND RECYCLED TRUCK WASHING FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 19.56 ACRES, MORE OR LESS" (Conditional Use No. 1171) filed on behalf of Hab Nab Transportation, Inc., with the following stipulations:

1. Office and truck repair facilities shall be a minimum of three hundred (300) feet from boundary lines of parcel subject to application.
2. There shall be no open and visible outside storage except trailers and trucks for sale.
3. There shall be no fuel sales.
4. Hours of operation shall be:
  - a. Monday through Friday, 6:00 a.m. to 8:00 p.m., with repairs after 6:00 p.m. to be done inside buildings.
  - b. Saturday, 6:00 a.m. to 6:00 p.m.
  - c. No Sunday hours.
  - d. Emergencies would be excepted from the limitations on hours, contingent on repairs being done inside the building.
5. There shall be an impervious surface on driveway and customer parking areas.
6. All lights will shine toward center of property.
7. There shall be security systems on the building.

M 536 96  
(con't)

8. Any truck washing facility is to recycle the water and dispose of any waste in accordance with EPA or DNREC regulations.
9. There shall be a 30' buffer zone to the south property line and a 10' planted buffer zone to the east and north property lines, as approved by the Planning & Zoning Commission.
10. All scrap or unusable trailers shall be removed within thirty days.
11. Applicant shall agree to provide cross easements if requested by adjacent property owners.
12. One lit sign, not exceeding 32 square feet, may be permitted.
13. No more than 500 gallons of fuel shall be stored on site at one time.
14. Site plan shall be subject to final review by the Planning & Zoning Commission.

Motion Denied: 3 Nay, 2 Yea.

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

The Council found that the proposed conditional use was not appropriate legislative action.

Public  
Hearing  
C/U  
No. 1172

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 RETAIL SALES AND PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30,950 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1172) filed on behalf of Charles G. and Patricia A. Wagner. There were no public comments. The Public Hearing was closed.

M 537 96  
Adopt  
Ordinance  
No. 1118  
(C/U  
No. 1172)

A Motion was made by Mr. Benson, seconded by Mr. Cole, to Adopt Ordinance No. 1118 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RETAIL SALES AND PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 30,950 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1172) filed on behalf of Charles G. and Patricia A. Wagner, with the following conditions:

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(Con't)

1. Only two buildings shall be permitted on site; the building nearest the highway shall be subject only to retail sales of crafts, antiques, clothing, furniture, furnishings and related items and the building toward the rear subject only to professional office use.
2. The site plan shall be subject to final review and approval by the Planning & Zoning Commission.

Motion Adopted: 5 Yea.

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

Findings  
of Fact

The Council found that the conditional use is appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed uses will occur on property historically used as commercial, neighborhood business property.
2. The applicant established by substantial evidence that the proposed uses will be consistent with the area as developed, and will have no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.
3. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Public  
Hearing  
C/U  
No. 1173

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR 13 MULTI-FAMILY UNITS LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.48 ACRES, MORE OR LESS" (Conditional Use No. 1173) filed on behalf of Raab/Ford Partnership. The Public Hearing was closed.

M 538 96  
Adopt  
Ordinance  
No. 1119  
(C/U  
No. 1173)

A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adopt Ordinance No. 1119 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR 13 MULTI-FAMILY UNITS LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.48 ACRES, MORE OR LESS" (Conditional Use No. 1173) filed on behalf of Raab/Ford Partnership, with the following conditions:

1. The use shall be restricted to residential purposes only; no home/business occupations shall be permitted.
2. All development shall be new construction limited to 13 dwelling units.

M 538 96  
(Con't)

3. An evergreen buffer screen shall be planted along the southern property line, as approved by the Planning & Zoning Commission.
4. Development is subject to all regulations of DNREC, Army Corps of Engineers, DelDOT, Sussex County Soil Conservation, Delaware Fire Marshal's office, and provisions of Sussex County ordinance.
5. There shall not be any boat ramps permitted on site.
6. Tot lot play area shall be constructed upon the completion of the first building units.
7. The designated pool area shall remain undeveloped if the Homeowner's Association does not construct a pool.
8. The approval date shall be effective January 30, 1997, pending negotiations between DelDOT and the Fords.

Motion Adopted: 5 Yea.

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

Findings  
of Fact

Findings of Fact

1. The Council finds that the conditional use is appropriate legislative action and that it adequately provides for the health, safety and welfare of the present and future inhabitants of Sussex County.
2. The Council bases these findings on the testimony and evidence presented by the applicant, upon statements of witnesses testifying at the Public Hearing and upon agency comments.
3. The Council has considered the recommendations of the Planning & Zoning Commission and finds that the Commission did not properly consider evidence concerning the DelDOT report and the DelDOT recommendation of denial. Specifically, the Council finds that the Commission's recommendation of denial for the sole reason that the property is not conducive to development is contrary to the evidence established in the record of the Commission's and the Council's hearings.
4. Approval of the conditional use is appropriate legislative action based upon the record of the Commission's and the Council's hearings and the following findings of fact:

Findings  
of Fact  
(con't)

- A. Conditional Use No. 1172 is consistent with the purpose of permitted uses in a MR Medium Residential District as specified in Sections 115-28 ETSEG of Sussex County Code.
- B. The property will be properly served with central sewer service provided by Sussex County and central water service provided by private sources.
- C. The recommendations of the Coastal Land Use Plan are consistent with this application.
- D. The application complies with the Coastal Sussex Land Use Plan providing a 50' buffer zone from tidal wetlands.
- E. The conditional use will provide adequate economic and innovative housing options for the residents of Sussex County.
- F. The conditional use will be developed with a density significantly less than the densities of surrounding communities.
- G. Adequate public safety will be provided by the Roxana Fire Company, Sussex County Emergency Medical System, and the Delaware State Police.
- H. The Delaware Department of Transportation has reviewed the development proposal and does not recommend a traffic impact study.

M 539 96 A Motion was made by Mr. Collins, seconded by Mr. Cole, to  
Adjourn adjourn at 5:35 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council