

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 1, 1994

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, February 1, 1994, 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 045 94      A Motion was made by Mr. Collins, seconded by Mr. Cole, to  
Approve      approve the minutes of the previous meeting dated January 25,  
Minutes      1994. Motion Adopted by Voice Vote.

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

ANNA M. SCOVELL, PARENT EDUCATOR, PARENT EARLY EDUCATION CENTER, LAUREL.

RE: To share some information about a free program for parents in the community. The program provides parent education to first time parents of children, birth to age three, on an individual basis or in group settings.

Mr. Cole read the following correspondence:

DIAZ J. BONVILLE, COMMUNITY PREVENTION COORDINATOR, CITY OF REHOBOTH BEACH/LEWES DECCASA (DELAWARE COMMUNITY CLUSTERS AGAINST SUBSTANCE ABUSE) PROGRAM. REHOBOTH BEACH.

RE: Appreciation for Council's \$1,000 grant to the DECCASA, Drummers and Dancers Anti-Drug Youth Troupe.

E. A.      Mr. Stickels, County Administrator, provided a brief history  
Timmons      and an update on the E. A. Timmons Mobile Home Park on Route  
Mobile      26 near Dagsboro. E. A. Timmons operated the mobile home  
Home      park until his death, after which the heirs of E. A. Timmons  
Park      inherited the park. The Timmonses were cited for numerous  
Update      violations which included open septic, improper sewer pipe  
            connections, wastewater allowed to collect on the ground,  
            uncontrolled growth, improperly stored trash, junk auto-  
            mobiles, uninhabitable mobile homes, and water supply pipes  
            leaking. At this time, all violations have been corrected.  
            Trash has been removed, vehicles removed, all mobile homes  
            removed, the well is capped, and all septic tanks have been  
            properly abandoned. All problems were resolved when the

E. A. Timmons Mobile Home Park Update heirs registered deed restrictions. The deed currently has restrictions that "there shall be no development upon the property which would enable human habitation thereof, whether for residential or commercial purposes, unless such development is connected to an off-site centralized wastewater treatment and disposal facility approved by Sussex County, Delaware, or another wastewater utility approved by the Delaware Department of Natural Resources and Environmental Control or its successors, and connected to a public water supply either provided by or approved by a water supply utility licensed by the State of Delaware".

Proposed Amendment Rule No. 4 Mr. Stickels, County Administrator, discussed a Proposed Amendment to Commission Rule No. 4 of the Delaware Alcoholic Beverage Control Commission. The Proposed Amendment will alter the requirement of providing certification from the appropriate governmental authorities that the location and building for which a license will be applied conforms with zoning ordinances.

M 046 94 Oppose Change in Rule No. 4 Delaware Alcoholic Beverage Control Commission A Motion was made by Mr. Collins, seconded by Mr. Cole, that the Sussex County Council, having met in public session, wishes to oppose change in Rule No. 4 that states any person proposing to make application for a license to sell alcoholic liquor shall first obtain a certificate from the appropriate governmental authorities that the location for which the license will be applied conforms with local zoning ordinances.  
Motion Adopted: 5 Yea.  
Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea; Mr. Collins, Yea; Mr. Stevenson, Yea; Mr. Dukes, Yea

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

1. Inland Bays Wastewater Facility

Until further notice, the Inland Bays Wastewater Facility will not accept holding or septic tank haulers. All haulers have been notified that if they wish for the County to accept the waste, it must be transported to the South Coastal Treatment Facility. The reason this is necessary is due to the extreme cold and wet weather experienced for the last 30 days. Irrigation fields are not in the proper condition to allow discharge. At this time, there is sufficient storage for the district's needs.

Adminis-  
trator's  
Report  
(con't)

2. Public Notice

The Delaware Department of Transportation will hold the third in a series of public workshops to present the refined alternative aimed at eliminating the effects of highway flooding on a portion of Route 54 from Road 58C to the canal ditch. The public workshop will be held on Wednesday, February 9, 1994, from 4:00 to 8:00 p.m. in the Fenwick Island Town Hall.

3. United Soils, Inc. - Conditional Use No. 1063

United Soils, Inc., withdrew its conditional use application. United Soils, Inc., had requested a conditional use for a ten acre parcel of AR-1 Agricultural Residential land located in Gumboro Hundred to be used for a composting facility.

Proposed  
RDA  
Loan  
Resolu-  
tions

Mr. Baker, Finance Director, reviewed six Proposed Rural Development Act (RDA) Loan Resolutions of the Sussex County Council "authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving, and/or extending its West Rehoboth Extension of Dewey Beach Sanitary Sewer District facility to serve an area lawfully within its jurisdiction to serve". The financing terms of the RDA loan are:

1. The loan will be a General Obligation Loan.
2. The term of the loan will be forty years, with quarterly payments.
3. The interest rate will be five percent.
4. Payment on the loan will be interest only for the first three years.
5. There will be no penalty for loan prepayment.
6. There are six individual loans, as follows: \$3,625,000, \$3,000,000, \$6,600,000, \$9,999,000, \$6,000,000, and \$9,999,000. The maximum total is \$39,223,000.

M 047 94  
Approve  
RDA  
Loan  
Resolu-  
tions

A Motion was made by Mr. Cole, seconded by Mr. Collins, to Approve the six RDA Loan Resolutions which express the County Council's intent to issue General Obligation Bonds for a maximum of \$39,223,000 through the RDA Loan Program to fund the West Rehoboth Sewer Project.

Motion Adopted: 5 Yea.

M 047 94 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
(con't) Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

Proposed Mr. Archut, Director of Planning and Permits, discussed the Agreement Proposed Agreement between the Town of Georgetown and Sussex Town of County for wastewater treatment for the Sussex County Industrial George- Airpark. The Proposed Agreement relates to the discharge of town sewage from the Industrial Airpark into the Georgetown Treatment Plant.

M 048 94 A Motion was made by Mr. Collins, seconded by Mr. Cole, that Execute the Sussex County Council President is authorized to execute Agreement the Proposed Agreement with the Town of Georgetown for Waste- Town of water Treatment at the Sussex County Industrial Airpark, as George- presented on February 1, 1994.  
town

Motion Adopted: 5 Yea.

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

Old Change of Zone No. 1214, entitled "AN ORDINANCE TO AMEND Business THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 C/Z #1214 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.25 ACRES, MORE OR LESS", filed on behalf of Tony Hudson was discussed. A Public Hearing was held on this application on December 14, 1993, at which time action was deferred pending site inspection by members of Council.

M 049 94 A Motion was made by Mr. Collins, seconded by Mr. Stevenson, Adopt to Adopt Ordinance No. 949 entitled "AN ORDINANCE TO AMEND Ordinance THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 No. 949 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL C/Z #1214 DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.25 ACRES, MORE OR LESS" (Change of Zone No. 1214) filed on behalf of Tony Hudson.

Motion Adopted: 3 Yea, 2 Nay.

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

Findings of Fact      The Council found that the change of zone was appropriate legislative action based upon the following findings of fact:

1. The applicant established by substantial evidence that the proposed change of zone will serve a public and community need and will enable the applicant to continue to operate his present business located elsewhere.
2. The applicant established by substantial evidence that the proposed change of zone, if the site plan is implemented by the applicant, will have no adverse impact on the character of the neighborhood (since C-1 property adjoins), property values therein, traffic or the environment in the area.
3. The change of zone will conform to the purposes and goals of the Comprehensive Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing  
First State  
Poultry,  
Inc.

A Public Hearing was held for the purpose of considering final approval of an application for the issuance of revenue bonds by Sussex County for First State Poultry, Inc., a Delaware Corporation, who is requesting \$1,500,000 in tax-exempt revenue bond financing to purchase equipment and 5± acres of land to construct a 11,200± sq. ft. building to process whole chicken breasts into deboned, skinless breast meat for distribution to commercial markets. The project location is on the westerly side of County Road No. 319, immediately adjacent to the Sussex County Airport. Mr. Stickels, County Administrator, reviewed a Proposed Resolution entitled "A PROJECT RESOLUTION AUTHORIZING UP TO \$1,500,000 ECONOMIC DEVELOPMENT REVENUE BONDS (FIRST STATE POULTRY, INC. PROJECT)".

M 050 94      A Motion was made by Mr. Stevenson, seconded by Mr. Benson,  
Adopt      to Adopt Resolution No. R 008 94 entitled "A PROJECT RESOLU-  
Resolu-      TION AUTHORIZING UP TO \$1,500,000 ECONOMIC DEVELOPMENT REVENUE  
tion      BONDS (FIRST STATE POULTRY, INC. PROJECT)".  
No.

R 008 94      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. Benson introduced a Proposed Ordinance entitled "AN  
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1  
AGRICULTURAL RESIDENTIAL DISTRICT FOR A COUNTRY CRAFT SHOP,  
PLANTS AND PRODUCE SALES AS EXTENSION TO CONDITIONAL USE NO.

Proposed Ordinance (con't) 927 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.66 ACRES, MORE OR LESS" (Conditional Use No. 1067) filed on behalf of Country Friends by Linda, c/o William and Linda Tribbitt. The Proposed Ordinance will be advertised for public hearing.

Proposed Ordinance Mr. Benson introduced a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MECHANICS SHOP FOR AUTO AND BOAT REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS" (Conditional Use No. 1068) filed on behalf of Robert E. Mitchell. The Proposed Ordinance will be advertised for public hearing.

M 051 94 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Benson, to give \$1,000 from Mr. Cole's Councilmanic Account to the Rehoboth Beach Little League in support of their program.

Motion Adopted: 5 Yea.

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

M 052 94 Recess At 11:07 a.m., a Motion was made by Mr. Collins, seconded by Mr. Stevenson, 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.

Absence Mr. Stevenson was not in attendance for the afternoon session.

Public Hearing C/U #1061 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 A PARTS STORAGE AND TRUCK FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.90 ACRES, MORE OR LESS" (Conditional Use No. 1061) filed on behalf of Gregory P. Mitchell. The Public Hearing was closed.

M 053 94 Adopt Ordinance No. 950 C/U #1061 A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Ordinance No. 950 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PARTS STORAGE AND TRUCK FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.90 ACRES, MORE OR LESS" (Conditional Use No. 1061) filed on behalf of Gregory P. Mitchell, subject to the following conditions:

- M 053 94  
(con't)
1. The applicant shall provide at least one row of ever-green trees along adjoining property lines which are not presently wooded.
  2. No signage shall be placed on the site.
  3. All storage activities shall be limited to the present cleared area.
  4. The existing manufactured home, behind the existing garage, shall be utilized for storage only.
  5. The site plan shall be subject to review and approval by the Planning and Zoning Commission.
  6. There shall be no wholesale or retail parts sales on site.

Motion Adopted: 4 Yea, 1 Absent.

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

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

1. The applicant established by substantial evidence that the proposed conditional use will allow an existing business enterprise to lawfully continue.
2. The proposed use, begun in 1984, subject to the conditions imposed hereby, 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 and Zoning Commission are incorporated herein.

Public Hearing C/U #1062 A Public Hearing was held on a Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE FOR AN EQUIPMENT LEASING COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.40 ACRES, MORE OR LESS" (Conditional Use No. 1062) filed on behalf of Excel Leasing Corporation. The Public Hearing was closed.

M 054 94  
Adopt Ordinance No. 951  
C/U #1062 A Motion was made by Mr. Collins, seconded by Mr. Cole, to Adopt Ordinance No. 951 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE FOR AN EQUIPMENT LEASING COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN

M 054 94 BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.40 ACRES,  
(con't) MORE OR LESS" (Conditional Use No. 1062) filed on behalf of  
Excel Leasing Corporation, subject to the following condi-  
tions:

1. No outside storage of equipment or material shall be permitted on-site.
2. The site plan shall be subject to review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

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

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

1. The applicant established by substantial evidence that the proposed use will enable the applicant to serve an expanding agricultural need.
2. The applicant established by substantial evidence that the proposed use 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 and Zoning Commission are incorporated herein.

Public Hearing C/Z #1217 A Public Hearing was held on a 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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.97 ACRES, MORE OR LESS" (Change of Zone No. 1217) filed on behalf of David L. and Charlotte T. Larson. The Public Hearing was closed.

M 055 94 A Motion was made by Mr. Cole, seconded by Mr. Benson, to  
Adopt Ordinance No. 952 entitled "AN ORDINANCE TO AMEND THE  
COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRI-  
CULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL  
DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN  
DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.97 ACRES, MORE  
OR LESS" (Change of Zone No. 1217) filed on behalf of David  
L. and Charlotte T. Larson.

Motion Adopted: 4 Yea, 1 Absent.

M 055 94 Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
(con't) Mr. Collins, Yea; Mr. Stevenson, Absent;  
Mr. Dukes, Yea

Findings of Fact The Council found that the change of zone was appropriate legislative action based upon the following findings of fact:

1. The applicant established by substantial evidence that the proposed change of zone will bring a series of commercial activities on site from pre-existing non-conforming status to zoning uniformity.
2. The applicant established by substantial evidence that the proposed change of zone will have no adverse impact on the character of the neighborhood, property values therein, traffic or the environment in the area.
3. The proposed change of zone will meet the purposes and goals of the Comprehensive Land Use Plan.
4. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing Chapter 115 A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO AGRICULTURAL FARMLAND OF FIVE (5) ACRES OR MORE". The Public Hearing was closed.

M 056 94 A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Ordinance No. 953 entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO AGRICULTURAL FARMLAND OF FIVE (5) ACRES OR MORE".

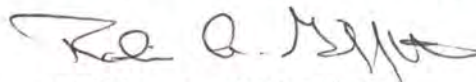
Motion Adopted: 4 Yea, 1 Absent.

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

Discuss Drafting of Ordinance Council discussed the drafting of an Ordinance to create a setback for open field storage of manure from property lines, dwellings, and ditches, as recommended by the Planning and Zoning Commission. No action was taken.

M 057 94 A Motion was made by Mr. Benson, seconded by Mr. Collins, to Adjourn adjourn at 2:28 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council