

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 28, 1994

Executive Session An Executive Session of the Sussex County Council was held on Tuesday, June 28, 1994, at 9:00 a.m., in the Council Chambers, Courthouse, Georgetown, Delaware, for the purpose of discussing pending litigation. The Executive Session concluded at 9:45 a.m.

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 28, 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 261 94 Amend Agenda A Motion was made by Mr. Collins, seconded by Mr. Benson, to amend the Agenda by striking the agenda item entitled "West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, Recommendation of Award for Construction Package 'B'" and by adding the agenda item entitled "First State Poultry - IRB Resolution".

Motion Adopted: 5 Yea.

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

M 262 94 Approve Minutes A Motion was made by Mr. Stevenson, seconded by Mr. Benson, to approve the minutes of the previous meeting dated June 21, 1994. Motion Adopted by Voice Vote.

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

CHAD KENTON SHIREY, STUDENT, SEAFORD CHRISTIAN ACADEMY, SEAFORD, DELAWARE.

RE: A.D.A.M. Program.

JOEY O'CONNOR, STUDENT, SEAFORD CHRISTIAN ACADEMY, SEAFORD, DELAWARE.

RE: A.D.A.M. Program.

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

Corre- RE: The scheduling of a public hearing on July 12, 1994, to
spondence consider an application filed by Wyoming Concrete Industries,
(con't) Inc., to construct and operate a portable central-mix concrete
plant near Ellendale.

EDWARD F. HEITE, HEITE CONSULTING, CAMDEN, DELAWARE.
RE: Regulations and archaeology.

WETLANDS AND AQUATIC PROTECTION BRANCH, DIVISION OF WATER
RESOURCES, DOVER, DELAWARE.
RE: Pending applications for subaqueous and/or wetlands
projects.

WANDA WHITE, FRANKFORD, DELAWARE.
RE: Appreciation for the grant that allowed her home to be
repaired.

Milford Judy Diogo, Executive Director of the Milford Chamber of
Chamber Commerce, presented Council with "World Championship Weakfish
of Tourney 1994" caps as a token of thanks for Council's finan-
Commerce cial support of the 16th Annual Tournament.

Memoran- Mr. Parker, Director of Assessments, and Mr. Donovan, Chief
dum of Fire Protection Specialist, Office of the State Fire Marshal,
Under- discussed a Proposed Memorandum of Understanding between the
Standing State of Delaware, Office of the State Fire Marshal, and the
Office Sussex County Council. The purpose of the Memorandum of
of the Understanding is to establish a working agreement to enhance
State the delivery of public services to the citizens of Sussex
Fire County in their contacts with the fire official and with the
Marshal building official, with respect to building construction,
additions, or alterations, and the need for permits and
Certificates of Occupancy. A similar agreement is being
negotiated with New Castle and Kent Counties.

M 263 94 A Motion was made by Mr. Cole, seconded by Mr. Collins, to
Execute authorize the Sussex County Council President to execute
Memoran- the Memorandum of Understanding between the State of Delaware,
dum of Office of the State Fire Marshal, and the Sussex County Council.
Under- Motion Adopted: 5 Yea.
Standing Office of
State Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Fire Mr. Collins, Yea; Mr. Stevenson, Yea;
Marshal Mr. Dukes, Yea

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

Adminis-
trator's
Report
(con't)

1. Hudson Pond Acres Proposed Streetlighting District

A referendum will be held on Wednesday, June 29, 1994, between the hours of 1:00 p.m. and 7:00 p.m. at the Morris Early Childhood Center, also known as the Lincoln School, on County Road 225, Lincoln, Delaware, for the purpose of allowing homeowners to vote on the Proposed Hudson Pond Acres Streetlighting District. The estimated charges will be \$37.70 per year per residential structure.

Residents of the proposed district were given an opportunity to participate in a public meeting on Wednesday, June 22, 1994, at 6:00 p.m. at the same location.

Any questions regarding the election or the organizing of the streetlighting district should be referred to Mr. Anthony DiGiuseppe at the Sussex County Engineering Department at 855-7839.

2. Road Naming Project

A public workshop will be held on Wednesday, June 29, 1994, starting at 7:00 p.m. at the Dagsboro Fire Hall, Dagsboro, Delaware. The purpose of the workshop will be to allow the public to submit names for the roads in the Dagsboro Fire District. Anyone wishing additional information prior to the workshop should contact Mr. Dennis Norwood, Assessment Division, at 855-7898.

3. Council Meeting Schedule

A reminder that there will be no County Council meeting on Tuesday, July 5, 1994. The next regularly scheduled meeting will be held on Tuesday, July 12, 1994.

Runway
4-22
Rehabil-
itation

Mr. Izzo, Director of Public Works, discussed the proposed rehabilitation of the 5,000 foot runway at the Sussex County Airport. The rehabilitation will include the resurfacing of the runway over a period of ninety days and will be performed in phases to limit any inconvenience to the users of the airport. Mr. Izzo reviewed the bid results for the runway rehabilitation project, as follows:

<u>BIDDER</u>	<u>AMOUNT</u>
SPARR Associates Salisbury, Maryland	\$1,579,952.50
Tilcon, Inc. Dover, Delaware	\$1,804,585.80

Runway 4-22 Rehabilitation (con't) Mr. Izzo recommended that the bid be awarded to SPARR Associates, the low bidder. If the bid is awarded to SPARR Associates, the total cost of the project will be \$1,748,424.50: construction - \$1,579,952.50; inspection - \$158,472.00; and administrative costs - \$10,000.00. If approved by Council, the project will be funded with a ninety percent grant from the FAA and five percent each from the County and the State of Delaware.

M 264 94 Accept FAA Grant for Runway 4-22 Rehabilitation A Motion was made by Mr. Collins, seconded by Mr. Benson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council accepts the grant offer from the Federal Aviation Administration in the amount of \$1,573,582.00, under the terms and conditions of the Airport and Airway Improvement Act of 1982, as amended, to complete the project known as "Runway 4-22 Rehabilitation" and identified as AIP No. 3-10-0007-04, and the County further commits to fund its five percent share of the total project cost, now estimated at \$87,421.25, contingent upon the approval of the County's legal counsel.

Motion Adopted: 4 Yea, 1 Nay.

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

M 265 94 Award Bid for Runway 4-22 Rehabilitation A Motion was made by Mr. Collins, seconded by Mr. Benson, based upon the recommendation of the Sussex County Engineering Department, that the Contract entitled "Runway 4-22 Rehabilitation" and identified as AIP-Project No. 3-10-0007-04, be awarded to SPARR Associates, Inc. of Salisbury, Maryland, in the amount of \$1,579,952.50, contingent upon Federal Aviation Administration approval of the bid award.

Motion Adopted: 4 Yea, 1 Nay.

Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Nay;
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 EXPANSION OF CONDITIONAL USE NO. 685 FOR PROPANE STORAGE AND SALES AND AN OFFICE BUILDING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" (Conditional Use No. 1083) filed on behalf of Robert A. Willey. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance Mr. Benson introduced 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.12 ACRES, MORE OR LESS" (Change of Zone No. 1236) filed on behalf of Turner Marine, Inc. The Proposed Ordinance will be advertised for Public Hearing.

M 266 94 A Motion was made by Mr. Collins, seconded by Mr. Benson, to Committee reappoint Arthur B. Marvel to the Building Code Appeal Board Appoint- for a term of four years. ment

Motion Adopted: 5 Yea.

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

M 267 94 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, Committee to reappoint Finley B. Jones, Jr. to the Building Code Appeal Appoint- Board for a term of four years. ment

Motion Adopted: 5 Yea.

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

M 268 94 A Motion was made by Mr. Collins, seconded by Mr. Benson, to Committee reappoint Ann Jones to the Building Code Appeal Board for a Appoint- term of four years. ment

Motion Adopted: 5 Yea.

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

First State Poultry, Inc. IRB Mr. Masten, Economic Development Department, and Mr. Whelen, Simon Securities, discussed the Industrial Revenue Bond of First State Poultry, Inc. On February 1, 1994, the Industrial Revenue Bond request was approved by the County Council in the amount of \$1,500,000. First State Poultry is now requesting that the bond issue be increased to \$2,000,000. The request for additional money is due to the fact that First State Poultry needs to increase the size of its building for processing equipment and the size of its production area to support one hundred fourteen employees, thirty more employees than originally projected. A Proposed Resolution entitled

IRB (con't) "RESOLUTION AMENDING PROJECT RESOLUTION TO INCREASE AMOUNT OF ECONOMIC DEVELOPMENT REVENUE BONDS FOR FIRST STATE POULTRY, INC. PROJECT" was read for Council's consideration.

M 269 94 A Motion was made by Mr. Stevenson, seconded by Mr. Cole, to Adopt Resolution No. R 020 94 entitled "RESOLUTION AMENDING PROJECT RESOLUTION TO INCREASE AMOUNT OF ECONOMIC DEVELOPMENT REVENUE BONDS FOR FIRST STATE POULTRY, INC. PROJECT".

Motion Adopted: 5 Yea.

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

M 270 94 A Motion was made by Mr. Cole, seconded by Mr. Collins, to Committee appoint Patricia Reichert to the Library Advisory Board for Appointment a term of three years.

Motion Adopted: 5 Yea.

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

M 271 94 A Motion was made by Mr. Cole, seconded by Mr. Collins, to Committee appoint Claudia Waters to the Advisory Committee for Handicapped and Aging Citizens of Sussex County for a term of two years.

Motion Adopted: 5 Yea.

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

M 272 94 A Motion was made by Mr. Cole, seconded by Mr. Collins, to Committee reappoint Sandra H. Dole to the Advisory Committee for Handicapped and Aging Citizens of Sussex County for a term of two years.

Motion Adopted: 5 Yea.

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

M 273 94 A Motion was made by Mr. Stevenson, seconded by Mr. Collins, to Committee reappoint Paul A. Lynch to the Advisory Committee for Appointment Handicapped and Aging Citizens of Sussex County for a term of two years.

Motion Adopted: 5 Yea.

M 273 94 (con't) Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;
Mr. Collins, Yea; Mr. Stevenson, Yea;
Mr. Dukes, Yea

M 274 94 A Motion was made by Mr. Stevenson, seconded by Mr. Benson, Committee to appoint Rev. Clarence H. Hays to the Advisory Committee for Appoint- Handicapped and Aging Citizens of Sussex County for a term of ment two years.

Motion Adopted: 5 Yea.

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

M 275 94 A Motion was made by Mr. Benson, seconded by Mr. Collins, to Committee appoint Vance Daniels, Sr. to the Advisory Committee for Appoint- Handicapped and Aging Citizens of Sussex County for a term of ment two years.

Motion Adopted: 5 Yea.

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

M 276 94 A Motion was made by Mr. Collins, seconded by Mr. Stevenson, Committee to reappoint L. Thomas Shockley to the Advisory Committee for Appoint- Handicapped and Aging Citizens of Sussex County for a term of ment two years.

Motion Adopted: 5 Yea.

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

M 277 94 A Motion was made by Mr. Collins, seconded by Mr. Benson, to Committee reappoint Albert Clark to the Advisory Committee for Handicapped Appoint- and Aging Citizens of Sussex County for a term of two years. ment

Motion Adopted: 5 Yea.

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

M 278 94 A Motion was made by Mr. Collins, seconded by Mr. Stevenson, Committee to reappoint Robert J. Raetz to the Advisory Committee for Appoint- Handicapped and Aging Citizens of Sussex County for a term of ment two years.

M 278 94 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

M 279 94 A Motion was made by Mr. Collins, seconded by Mr. Stevenson,
Committee to reappoint David B. Webb, Jr. to the Advisory Committee for
Appoint- Handicapped and Aging Citizens of Sussex County for a term of
ment two years.

Motion Adopted: 5 Yea.

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

M 280 94 A Motion was made by Mr. Collins, seconded by Mr. Stevenson,
Committee to appoint Raymond Townsend to the Advisory Committee for
Appoint- Handicapped and Aging Citizens of Sussex County for a term of
ment two years.

Motion Adopted: 5 Yea.

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

Chair Mr. Dukes turned the Chair over to Mr. Collins.

M 281 94 A Motion was made by Mr. Dukes, seconded by Mr. Benson, to
Committee appoint Ronald Lynch to the Planning and Zoning Commission
Appoint- for a term of three years.
ment

Motion Adopted: 4 Yea, 1 Nay.

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

M 282 94 At 11:05 a.m., a Motion was made by Mr. Dukes, seconded by
Recess Mr. Benson, to recess until 1:30 p.m. Motion Adopted by
Voice Vote.

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

Chair Mr. Collins turned the Chair over to Mr. Dukes.

M 283 94 A Motion was made by Mr. Collins, seconded by Mr. Benson,
Council- to give \$500.00 from Mr. Collins' Councilmanic Account to
manic the Town of Millsboro to be used for additional sidewalk
Grant at the W.B. Atkins Park or improvements in Cupola Park.

Motion Adopted: 5 Yea.

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

Public A Public Hearing was held on the Proposed Ordinance entitled
Hearing "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
C/U AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR
No. 1078 SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.38
ACRES, MORE OR LESS" (Conditional Use No. 1078) filed on
behalf of Richard M. Brown. The Public Hearing was closed.

M 284 94 A Motion was made by Mr. Benson, seconded by Mr. Stevenson,
Adopt to Adopt Ordinance No. 974 entitled "AN ORDINANCE TO GRANT
Ordinance A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDEN-
No. 974 TIAL DISTRICT FOR AN AUTOMOTIVE REPAIR SHOP TO BE LOCATED
C/U ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL
No. 1078 HUNDRED, SUSSEX COUNTY, CONTAINING 1.38 ACRES, MORE OR
LESS" (Conditional Use No. 1078) filed on behalf of Richard
M. Brown, with the following conditions:

1. Fencing shall be provided to shield the view of vehicles stored.
2. No more than three vehicles shall be stored at any one time.
3. No more than one additional service bay shall be considered as future expansion for this Conditional Use.
4. The business shall operate no more than six days per week with no Sunday hours.
5. Signage shall not exceed thirty-two square feet per side or facing and shall not be lighted.
6. The site plan shall be subject to review and approval of the Planning and 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 was appropriate legislative action based upon the following findings of fact:

1. The applicant established by substantial evidence that the proposed use will serve an existing community need and will allow the applicant to continue his occupation as a mechanic, temporarily discontinued because his former business was repurchased by his gasoline supplier.
2. The applicant established by substantial evidence that the proposed use, in the nature of a home occupation, will have no adverse impact on the character of the neighborhood, property values therein, the environment or traffic in the area.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public
Hearing
C/Z
No. 1232

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS" (Change of Zone No. 1232) filed on behalf of Hilda M. Hudson and Howard W. Hudson, Jr., et. ux. The Public Hearing was closed.

M 285 94
Adopt
Ordinance
No. 975
C/Z
No. 1232

A Motion was made by Mr. Collins, seconded by Mr. Stevenson, to Adopt Ordinance No. 975 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS (Change of Zone No. 1232) filed on behalf of Hilda M. Hudson and Howard W. Hudson, Jr., et. ux.

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 Change of Zone was appropriate legislative action based upon the following findings of fact:

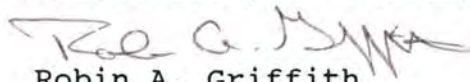
1. The applicant established by substantial evidence that the Change of Zone will have no adverse impact on the character of the neighborhood, property values therein, the environment or the traffic in the area.

Findings
of Fact
(con't)

2. The applicant established by substantial evidence that the Change of Zone will bring the property into zoning conformity, given its historic commercial uses.
3. The Change of Zone meets 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.

M 286 94 A Motion was made by Mr. Collins, seconded by Mr. Benson, to
Adjourn adjourn at 1:55 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council