

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 14, 1992

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, July 14, 1992, 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 303 92      A Motion was made by Mr. Benson, seconded by Mr. Stevenson, that Amend Minutes      the minutes of July 7, 1992, page 7, regarding M 301 92, a Councilmanic Grant to the Lewes Fire Department, Inc., be amended by striking [\$500.00] and inserting in lieu thereof \$600.00. Motion Adopted by Voice Vote.

M 304 92      A Motion was made by Mr. Collins, seconded by Mr. Benson, to Adopt Minutes      approve the minutes of the previous meeting dated July 7, 1992, as amended. Motion Adopted by Voice Vote.

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

DELAWARE LEAGUE OF LOCAL GOVERNMENTS, DOVER  
RE: July, 1992, Quarterly Newsletter.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, SUSSEX COUNTY  
ASCS OFFICE, GEORGETOWN  
RE: Farm Program Fact Sheet regarding Water Quality Incentive Projects.

STATE OFFICE OF VOLUNTEERISM, DEPARTMENT OF HEALTH AND SOCIAL  
SERVICES, DOVER  
RE: Summer 1992 newsletter entitled "The Delaware Volunteer".

NATIONAL FEDERATION OF THE BLIND OF DELAWARE, SUSSEX COUNTY  
CHAPTER, GEORGETOWN  
RE: Appreciation for Council's assistance in sending delegates to the National Convention.

RANDY J. HOLLAND, JUSTICE, SUPREME COURT OF DELAWARE, GEORGETOWN  
RE: Letter to Mr. Stickels expressing appreciation for the efforts of County employees to accommodate the courts during the Courthouse construction phase and upon its completion.

Letters (con't) JUDITH H. HOOPES, EXECUTIVE DIRECTOR, DELAWARE SYMPHONY ASSOCIATION, WILMINGTON  
RE: Appreciation for contribution to the Cape Concert.

DUBLIN HILL 4-H CLUB  
RE: Appreciation for contribution for the Club's trip to Washington, D.C.

Moratorium on Bungee Jumping and other Amusements Mr. Stickels, County Administrator, discussed Councilman Cole's question at the July 7th meeting regarding the authority of Council to place a moratorium on applications of bungee jumping amusements and other applications of the same nature until such time as action on the Proposed Ordinance introduced on June 23, 1992, addressing such activities has been held. After a review of the matter by Mr. Bayard, County Attorney; Mr. Schrader, Assistant County Attorney; and Mr. Lank, Director of Planning and Zoning, a Resolution entitled "A RESOLUTION IMPOSING MORATORIUM ON FURTHER GRANTING OF SITE PLAN APPROVALS, ZONING CHANGES, OR CONDITIONAL USE PERMITS FOR AMUSEMENT PLACES IN B-1 NEIGHBORHOOD BUSINESS DISTRICTS AND C-1 GENERAL COMMERCIAL DISTRICTS" was presented to Council for consideration. Mr. Bayard read the Resolution in its entirety.

M 305 92 A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt  
Adopt Resolution R 016 92 entitled "A RESOLUTION IMPOSING MORATORIUM  
R 016 92 ON FURTHER GRANTING OF SITE PLAN APPROVALS, ZONING CHANGES, OR  
Moratorium on CONDITIONAL USE PERMITS FOR AMUSEMENT PLACES IN B-1 NEIGHBORHOOD  
Amusements BUSINESS DISTRICTS AND C-1 GENERAL COMMERCIAL DISTRICTS".

Motion Adopted: 5 Yea.

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

Agreement between Mid Atlantic Air Museum and Sussex County Council providing for the dismantlement and removal of two Vicker Viscount aircraft from the Sussex County Airpark. The aircraft to be removed are two of the three aircraft which the County has been trying to have removed since 1989. The third aircraft is owned by the Smithsonian Air and Space Museum.

M 306 92 A Motion was made by Mr. Benson, seconded by Mr. Collins, to  
Execute authorize County Administrator Robert Stickels to execute an  
Agreement Agreement between Mid Atlantic Air Museum and Sussex County  
Mid Council for the dismantlement and removal of two Vicker Viscount  
Atlantic aircraft from the Sussex County Airpark.  
Air  
Museum

Motion Adopted: 5 Yea.

M 306 92 (con't) Vote by Roll Call: Mr. Benson, Yea; Mr. Cole, Yea;  
Mr. Collins, Yea; Mr. Stevenson, Yea;  
Mr. Dukes, Yea

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

1. House Resolution No. 122

The House of Representatives has passed House Resolution No. 122 establishing the Hazardous Materials Transportation Route Task Force. The Speaker of the House, Terry Spence, has asked that the County Council designate a Sussex County citizen to participate in the development of a program establishing hazardous material routes throughout the state. The Resolution calls for two members of the House of Representatives, one representative of the trucking industry, one representative of the rail industry, one member of the Petroleum Council, one representative of the agricultural community, two officials from DelDOT, one member of the Commission on Hazardous Materials, one member of the Emergency Response Team, one official from the Department of Public Health, one representative from the Environmental Protection Agency, one official from the planning section of each County, and a member-at-large from each county. Representative Spence needs for Council to submit its representative by Friday, July 17, 1992.

Appoint- Mr. Stickels, County Administrator, recommended that Lynn Bullock,  
ment Emergency Operations - Hazardous Materials, be appointed member-  
at-large for Sussex County.

M 307 92 A Motion was made by Mr. Benson, seconded by Mr. Collins, to  
Appoint- appoint Lynn Bullock to the Hazardous Materials Transportation  
ment Task Force as member-at-large for Sussex County.

Motion Adopted: 5 Yea.

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

Adminis- 2. Roll-Back Taxes  
trator's  
Report  
(con't)

On Monday, July 13, 1992, Governor Michael N. Castle signed into law legislation regarding roll-back taxes. Under the new legislation, the schools will continue to receive revenues generated from roll-back taxes. The County, however, will not be able to retain the funds that it collects. The County Council must turn these funds over to the Delaware Agricultural

Adminis-  
trator's  
Report  
(con't)

Lands Preservation Foundation to fund the farmland preservation program. The County will, however, be paid seven and a half percent of all funds collected that are used for the farmland preservation program.

There is another advantage to this program, in addition to the funding that the County will be paid for administering the collection, in that converted property will be placed on the County tax rolls once the property has been converted. In the past, the County has waited until the property has been developed before changing the taxes.

C/U  
#1005

Conditional Use No. 1005, filed on behalf of James E. Harrington, was discussed. A Public Hearing was held on June 16, 1992, at which time the Public Hearing was closed and action was deferred.

M 308 92  
Adopt  
Ordinance  
No. 843  
(C/U  
#1005)

A Motion was made by Mr. Cole, seconded by Mr. Stevenson, to Adopt Ordinance No. 843 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT AND TRAILER STORAGE, AND REPAIR OF FARM EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.2 ACRES, MORE OR LESS" (C/U #1005) filed on behalf of James E. Harrington, with the Conditional Use to be restricted to lawn mower and small engine repair only, and upon the following stipulations:

1. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.
2. There shall be no auto repairs on site.
3. Scheduled hours of operation shall be from 9:00 a.m. to 4:00 p.m. with no Sunday hours.
4. There shall be no sale of fuel on site.

Motion Adopted: 3 Yea; 2 Nay.

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

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 uses proposed served a public demand in the area. The uses proposed will cause no adverse impact on the character of the neighborhood, property values therein, or the environment in the area.

- Findings of Fact (con't)
2. The uses proposed are not inconsistent with the purposes of the Land Use Plan.
  3. The findings of fact and recommendations of the Planning & Zoning Commission are incorporated herein.

Proposed Ordinance Mr. Benson 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.71 ACRES, MORE OR LESS" (C/Z #1169) filed on behalf of Victor J. Little, Jr. The Proposed Ordinance will be advertised for Public Hearing.

M 309 92 Councilmanic Grant A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to give \$600.00 from Mr. Benson's Councilmanic Account, to the Ellendale Volunteer Fire Company to buy an air compressor.

Motion Adopted: 5 Yea.

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

Agricultural Area Concerns Mr. Collins discussed concerns regarding complaints farmers are receiving in agricultural areas where strip development is taking place. Mr. Stickels advised that a previously Proposed Ordinance addressing this matter was not supported by the Farm Bureau and other agencies.

Mariner's Cove Pumping Station Mr. Stickels, County Administrator, addressed the comment made by Councilman Cole at the meeting on July 7th that he had received a complaint regarding the offensive odor around the Mariner's Cove pumping station. Mr. Thomas Kiefer, KCI Technologies, advised Council that the concern is being addressed and the following actions have been taken: (1) the vent stack has been raised, and (2) odor control agents have been added.

Public Hearing C/U #1014 A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION TO AN EXISTING PUBLIC SCHOOL FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.89 ACRES, MORE OR LESS" (C/U #1014) filed on behalf of Milford School District. The Public Hearing was closed.

M 310 92 Adopt Ordinance No. 844 A Motion was made by Mr. Cole, seconded by Mr. Benson, to Adopt Ordinance No. 844 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXPANSION TO AN EXISTING PUBLIC SCHOOL FACILITY TO BE LOCATED ON

M 310 92  
(con't)

A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.89 ACRES, MORE OR LESS" (C/U #1014) filed on behalf of Milford School District, with the following stipulations:

1. Milford School District will seek the administrative or judicial vacation of Butler Avenue, Lincoln, Delaware, which is 80 feet in width.
2. In the petition for the administrative or judicial vacation of Butler Avenue, Milford School District will seek to have the southerly 40 feet of the 80 foot wide right-of-way conveyed to the Keens and Doughtons.
3. The Milford School District shall seek to have the northerly 40 feet of the right-of-way conveyed to the Milford School District.
4. The Milford School District shall grant to the Keens and Doughtons, or their successors in title, a 10 foot right-of-way for the benefit of the Keens and Doughtons, or their successors in title, on the north side of the centerline of Butler Avenue based upon the survey provided by Michael Swain.
5. The side yard building setback for the Milford School District property shall be measured from the northerly side of the 10 foot right-of-way conveyed to the Keens and the Doughtons.

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 use proposed will serve a growing public educational need in the Milford area. The use proposed will cause no adverse impact on the character of the neighborhood, property values therein, or the environment in the area.
2. The use proposed is consistent with the purposes of the Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 311 92 At 11:34 a.m., a Motion was made by Mr. Stevenson, seconded by Mr.  
Recess Benson, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

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

Absence Councilman Cole was not in attendance for the afternoon session.

Public A Public Hearing was held on Proposed Ordinance entitled "AN  
Hearing ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICUL-  
C/U TURAL RESIDENTIAL DISTRICT FOR DOCTORS AND PROFESSIONAL OFFICES  
#1009 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN  
LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.54 ACRES,  
MORE OR LESS" (C/U #1009) filed on behalf of Bayside Health  
Association Chartered. The Public Hearing was closed.

M 312 92 A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to  
Adopt Adopt Ordinance No. 845 entitled "AN ORDINANCE TO GRANT A  
Ordinance CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL  
No. 845 DISTRICT FOR DOCTORS AND PROFESSIONAL OFFICES TO BE LOCATED ON A  
CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH  
HUNDRED, SUSSEX COUNTY, CONTAINING 1.54 ACRES, MORE OR LESS"  
(C/U #1009) filed on behalf of Bayside Health Association  
Chartered, with the following stipulations:

1. The premises shall be utilized for doctors offices and/or medical professional offices only.
2. Parking shall be located to the rear of the building.
3. The front of the building shall maintain a residential appearance.
4. One unlighted ground sign, not exceeding 32 square feet per facing, shall be permitted.
5. The application is subject to final site plan review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea; 1 Absent.

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

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

1. The applicant established by substantial evidence that the use proposed serves a growing public need and is well located near Beebe Hospital. The use proposed is consistent

Findings  
of Fact  
(con't)

with the character of the neighborhood and will cause no adverse impact on property values, traffic, or the environment in the area.

2. The use proposed is consistent with the purposes of the Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public  
Hearing  
(C/U  
#1011)

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR POOL AND SPA SERVICE, SALES AND SUPPLIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS" (C/U #1011) filed on behalf of Steven C. Cannon. The Public Hearing was closed and action was deferred.

Public  
Hearing  
(C/U  
#1012)

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS" (C/U #1012) filed on behalf of Margaret R. and Roy Z. Eby. The Public Hearing was closed and action deferred. The record will remain open until July 30, 1992, to allow the applicant time to provide, in writing, plans and intentions for the project. This information will be available for review for fifteen days following July 30, 1992.

Public  
Hearing  
(C/U  
#1013)

A Public Hearing was held on Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR ASSEMBLY OF PUMPING SYSTEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 37,802 SQUARE FEET, MORE OR LESS" (C/U #1013) filed on behalf of Joseph J. Deutsch. The Public Hearing was closed.

M 313 92  
Adopt  
Ordinance  
No. 846  
(C/U  
#1013)

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to Adopt Ordinance No. 846 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR ASSEMBLY OF PUMPING SYSTEMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 37,802 SQUARE FEET, MORE OR LESS" (C/U #1013) filed on behalf of Joseph J. Deutsch, with the following stipulations:

1. The business shall be located in the existing 39.5' by 30.3' masonry building on the east side of the site.

M 313 92  
(con't)

2. Signage on the structure shall not exceed 32 square feet.
3. Parking shall be adjacent to and in front of the existing building.
4. No on-site sales shall be permitted.
5. The site plan shall be required to be reviewed and approved by the Planning and Zoning Commission upon receipt of appropriate agency approvals.

Motion Adopted: 4 Yea; 1 Absent.

Vote By Roll Call: Mr. Benson, Yea; Mr. Cole, Absent;  
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 use proposed will serve a growing consumer need. It, if developed, will not change the character of the neighborhood, affect property values therein, traffic patterns or flows, and will not affect the environment in the area.
2. The use proposed is consistent with the purposes of the Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 314 92  
Adjourn

A Motion was made by Mr. Benson, seconded by Mr. Stevenson, to adjourn at 3:20 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council