

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 22, 1997

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, July 22, 1997, 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
George B. Cole	Member
Finley B. Jones	Member
Lynn J. Rogers	Member

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

M 348 97      A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Approve Agenda      approve the Agenda, with the following amendments:

Delete "Committee Appointments".

Delete "Introduction of Proposed Zoning Ordinances".

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

M 349 97      A Motion was made by Mr. Jones, seconded by Mr. Cole, that Approve Minutes      the minutes of the previous meeting, dated July 15, 1997, be adopted in their entirety, except that the number "2" in M 331 97, on Page 4, be changed to the number "3".

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

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

MICHELLE BEERS, DELMAR POP WARNER FOOTBALL ASSOCIATION, DELMAR, DELAWARE.

RE: Letter expressing appreciation for Councilmanic Grant.

GEORGE T. BEAUCHAMP, EXECUTIVE DIRECTOR, SEAFORD, DELAWARE.

RE: Letter expressing appreciation for Councilmanic Grant.

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

Corre- RE: Legal Notice regarding the issuance of Secretary's Order  
spondence No. 97-A-0021 to Tilcon of Delaware, Inc., to construct/  
(con't) relocate and operate a hot mix asphalt plant on Route 13 in  
Georgetown.

Old Conditional Use No. 1177 entitled "AN ORDINANCE TO GRANT A  
Business CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL  
(C/U DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES NOT EXCEEDING  
No. 1177) 25 UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING  
AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING  
3.08 ACRES, MORE OR LESS", filed on behalf of Bertie E.  
Dawson, c/o Col. Richard A. Dawson, was discussed. A Public  
Hearing on this application was held on April 29, 1997, at  
which time the Public Hearing was closed; however, the record  
was left open until May 29, 1997, for written comments. This  
application was also discussed under Old Business at the July  
15, 1997, Council meeting; Council tabled action until July  
22, 1997, to allow County staff sufficient time to review the  
stipulations which were submitted by the Planning and Zoning  
Commission, the applicant, and the opposition.

M 350 97 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to  
Adopt Ordinance No. 1158 entitled "AN ORDINANCE TO GRANT A  
Ordinance CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL  
No. 1158 DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES NOT EXCEEDING  
(C/U 25 UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING  
No. 1177) AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING  
3.08 ACRES, MORE OR LESS" (Conditional Use No. 1177) filed  
on behalf of Bertie E. Dawson, c/o Richard A. Dawson, with  
stipulations:

1. The maximum number of units shall not exceed twenty-four (24). The number of units shall be subject to approval by the County Engineering Department.
2. The developer shall perform a capacity analysis and fund any necessary infrastructure improvements to accommodate the acceptable number of units.
3. The development shall be a part of a County Sewer District and the design shall be subject to review and approval by the County Engineering Department.
4. No more than five (5) buildings shall be permitted. Building heights shall not exceed forty-two (42) feet.
5. Central water shall be provided for the residential units by a private franchise or the Town of Bethany Beach. Individual wells shall not be permitted.
6. Stormwater management and erosion/sedimentation control shall comply with all State and County regulations.

M 350 97  
(con't)

7. The developer shall provide recreational amenities as designated on the final site plan.
8. A twenty (20) foot wide buffer shall be provided from the Wilgus Subdivision and shall be landscaped by the developer for the purpose of screening from neighboring properties.
9. Trash dumpster locations shall not be placed within forty (40) feet of any property line, shall be depicted on the site plan, and shall be subject to review and approval by the Planning and Zoning Commission. Dumpster areas shall be landscaped and fenced with sight tight fencing a minimum of six (6) feet tall to screen dumpsters.
10. Entrance design shall include consideration of multi-modal transportation by providing for sidewalks or paths for pedestrians and cyclists. If required by DelDOT, a dedication of sufficient space to accommodate a bus stop shall be provided.
11. The developer shall comply with all Federal, State, and County regulations.
12. All exterior lighting shall be shielded and directed into the project and away from neighboring properties. Lights shall not exceed twelve (12) feet in height with no more than one hundred and fifty (150) watts metal halide or equal.
13. The site plan shall be subject to review and approval by the Planning and Zoning Commission. Final site plan shall not be processed until all appropriate agency approvals and/or permits are submitted to the Planning and Zoning Department. Approvals and/or permits shall include, but shall not be limited to, the County Engineering Department, the Office of the State Fire Marshal, the Sussex Conservation District, DelDOT, and the U.S. Army Corps of Engineers.
14. The applicant will comply with all laws and regulations of the State of Delaware with respect to human remains and burial sites, if any are discovered during the site development process.

Motion Adopted: 4 Yea, 1 Nay.

Vote by Roll Call: Mr. Cole, Nay; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

Findings  
of Fact

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

Findings of Fact (con't)

1. The applicant established by substantial evidence that the proposed use will be consistent with the character of the neighborhood as developed, a mix of single family, townhouses and multi-family residences, and as a result, will have no adverse impact on property values in the environment and with the conditions in place, any traffic, water, or sewer problems have been fully addressed.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Land Use Plan and the newly drafted, not yet adopted, Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Annual Audit Agreement

Mr. Baker, Finance Director, discussed the procedure by which the County procures the services of a Certified Public Accountant for the purpose of providing annual audits. In the past, the County has awarded the bid for these services based on the competitive bid process. Mr. Baker advised that while this process is legal, it is not the only method which is permitted; 9 Del.C. Section 7002(j) provides in part that "The County government may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular or fiscal year shall be made no later than 30 days after beginning of such fiscal year".

The County's current Audit Agreement is with Jefferson, Urian, Doane & Sterner and is for a period of three years. Mr. Baker has been negotiating the terms of a one year extension to this Agreement to allow the County time to consider a new procedure. In accordance with 9 Del.C., this one year extension must be approved no later than July 30, 1997. Mr. Baker reviewed a proposal submitted by the firm of Jefferson, Urian, Doane & Sterner; the proposal outlined three options, as follows:

<u>Scope of Work</u>	<u>Proposal Costs</u>	<u>Estimated Cost Increase</u>	<u>Percentage Increase</u>
Complete Audit	\$67,195.50	\$24,831.00	58.61%
Audit with Library Unaudited Reports	\$58,995.50	\$16,631.00	39.26%
Audit with Library Audited & Unaudited Reports	\$63,245.50	\$20,881.00	49.29%

Mr. Baker advised that due to the large cost increase, he could not recommend an extension of the Audit Agreement. For this reason, Mr. Baker recommended that the County continue with the competitive bid process; in the meantime, the County can investigate a new procedure.

Agree-  
ment  
(con't)

Mr. Baker was instructed by Council to renegotiate an extension to the Audit Agreement with Jefferson, Urian, Doane & Sterner and to report back to Council at the July 29, 1997, meeting.

Sussex  
County  
Project  
No.  
97-04

Mr. Sapp, Project Engineer, discussed bids received for Sussex County Project No. 97-04, Medium Intensity Taxiway Lights and Guidance Lights. These bids were presented to Council at the July 15, 1997, meeting. Mr. Sapp advised that the Engineering Department and the Consulting Engineer recommend that the project be awarded to the low bidder, John W. Tieder, Inc., at the bid amount of \$316,311.00

M 351 97  
Award  
Sussex  
County  
Project  
No.  
97-04

A Motion was made by Mr. Jones, seconded by Mr. Rogers, based on the recommendation of the Sussex County Engineering Department and the Consulting Engineers, Delta Airport Consultants, that the Sussex County Council award Sussex County Project No. 97-04, Install Medium Intensity Taxiway Lights and Mandatory Guidance Signs and Construct an Airfield Electrical Vault, to John W. Tieder, Inc. at the bid amount of \$316,311.00, pending the approval of said award by the Federal Aviation Administration and the Delaware Department of Transportation.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

Sussex  
County  
Project  
No.  
96-12

Mr. Sapp, Project Engineer, reported on bids received for Sussex County Project No. 96-12, Inland Bays Access Road, as follows:

<u>CONTRACTOR</u>	<u>BID AMOUNT</u>
A.P. Croll and Son Georgetown, Delaware	\$103,878.50
SPARR Associates Salisbury, Maryland	\$104,505.00
Jerry's Paving Milford, Delaware	\$111,672.50
Tilcon Delaware Dover, Delaware	\$114,872.40
Delmarva Paving Seaford, Delaware	\$120,785.50
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Engineer's Estimate	\$110,000.00

M 352 97  
Award  
Sussex  
County  
Project  
No.  
96-12

A Motion was made by Mr. Jones, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 96-12, Inland Bays Access Road, be awarded to A.P. Croll and Son, Inc. at a cost of \$103,878.50.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

Airport  
Master  
Plan  
Amend-  
ment

Mr. Sapp, Project Engineer, discussed a proposed Airport Master Plan Amendment. Also in attendance to discuss the proposal was Mr. Amato, Director, Office of Aeronautics, Delaware Department of Transportation; and Mr. Haskins of Georgetown Aircraft. The proposed Amendment provides for a Phase I and II Development Plan, as follows:

Phase I: Runway 4-22 Asphalt Safety Zone Extension

The scope of work includes a 500' extension of asphalt safety safety zone at each end of the runway for insurance and safety purposes. The Runway Protection Zone will not be affected, so there will be no impact on surrounding properties. The existing runway threshold will remain at present location. Some runway lights will have to be relocated but performance will not be affected. The cost of the project will be \$1,500,000; the project will take 12-24 months.

Phase II: Runway 13-31 Conversion to Taxiway "C" and Reconstruction of Abandoned Runway 10-28

The scope of work includes crack repair and hot mix overlay of existing Runway 13-31 including southerly split onto abandoned Runway 10-28 which is in poor condition; installation of Medium Intensity Taxiway Lighting, markings, and minor signage; removal of approximately 3,600 L.F. of Jet Track from runway and installing proper fill material in its place; removal of any deteriorated, broken, or unsuitable sections of existing surface; milling of approximately 2,700 L.F. x 20' wide asphalt surface; crack and joint repair, FAA specification hot mix overlay for 3,600' x 60' area of runway; installation of all necessary lights, guidance signs, markers, and painting. The cost of the project will be \$3,900,000; the project will take 24-48 months.

The Airport Master Plan Amendment is supported by the Sussex County Airport Committee, Delaware Department of Transportation, and Delta Airport Consultants.

M 353 97 A Motion was made by Mr. Rogers, seconded by Mr. Jones, that Authorize the Sussex County Council authorizes the Engineering Department Airport Master Plan Amendment to seek an Amendment of the County's Airport Lay Out Plan to accommodate the Proposed Phase I and II Development Plan, contingent on the receipt of approval from the Federal Aviation Administration and the RDA.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

Change Order Mr. McCabe, Project Engineer, discussed a change order to Sussex County Project No. 96-10, Sussex County Parking Facilities No. 2.

M 354 97 A Motion was made by Mr. Jones, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Sussex County Project No. 96-10, Sussex County Parking Facilities No. 2, for \$2,758.93, be approved for additional undercut excavation and imported backfill, change of electric meter box location, addition of photo cell switch, reduction of quantity of crusher run base, and seven additional days of contract time, which increases the contract from \$83,159.00 to \$85,917.93.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

Delaware River Channel Deepening Project Mr. John Hughes, Director, Division of Soil and Water Conservation, Department of Natural Resources and Environmental Control, was in attendance to discuss the U.S. Army Corps of Engineers' Delaware River Channel Deepening Project. In 1992, Congress authorized \$200 million to deepen the main navigation channel in the Delaware River and Bay. Through dredging the river in Pennsylvania, New Jersey and Delaware, the Corps will deepen the channel from 40 to 45 feet. Mr. Hughes outlined the Corps' plans for the beneficial reuse of material from the Delaware River Channel Deepening Project, including proposed wetlands restoration on Kelly Island and sand-stockpiling off the shores of Delaware abutting the Delaware River and Bay (one-third to one-half mile off of the Broadkill Beach and Slaughter Beach in Sussex County). Mr. Hughes advised that there are concerns that the sand-stockpiling will have an adverse effect on aquatic life and could seriously effect commercial and recreational fishing and other related business enterprises in the lower Delaware

Delaware  
River  
Channel  
Deepening  
Project  
(con't)

Bay. Concerns have also been expressed that the sand should not be stockpiled off the shores of Delaware but brought to shore for a more beneficial use - to create habitat and wetlands and to protect public beaches. It was the consensus of Council that Mr. Stickels, County Administrator, write to the U.S. Army Corps of Engineers on behalf of the County Council, to go on record as opposing any efforts by the Army Corps of Engineers to dispose of dredging materials off the shores of Sussex County, Delaware; to go on record that Council believes that this activity would adversely affect the ecology and economy of this area; and to go on record supporting the position of the Delaware Department of Natural Resources and Environmental Control - Division of Soil and Water Conservation, who would prefer to see the materials placed directly on the beach at the State's current nourishment project sites along the shore of the Delaware Bay.

Delmarva  
Aircraft  
Lease  
Agree-  
ment

Mr. Stickels, County Administrator, advised that twelve years ago, Sussex County Council signed a Lease and Operating Agreement with Delmarva Aircraft, Inc. to establish and operate a general aviation support service facility for Sussex County Airport. This Agreement was entered into with the hope that the company would generate more economic development for the County by bringing in more companies, selling more fuel, and leasing more hangar space. Mr. Stickels advised that the goal of this lease is not being realized and therefore, County staff is proposing a buy-back of the Lease thereby permitting the County's Economic Development Office to operate the airport. Mr. Stickels presented a proposal that would give the County ownership of the terminal building, adjoining hangar space, hangars, tie down areas, and 350 acres of land, as follows:

Remaining 28 Years of Lease	\$ 103,449
One Small Hangar and One Large Hangar	\$ 45,000
Fuel Farm	\$ 11,000
Wastewater Pump Station	\$ 10,551
Tools, Equipment & Furniture	\$ 5,000
TOTAL	\$ 175,000

It was noted that this proposal has not been accepted, in writing, by Delmarva Aircraft, Inc.

M 355 97  
Negotiate  
Buy-out  
of Lease

A Motion was made by Mr. Collins, seconded by Mr. Rogers, that the Sussex County Council authorizes the County Administrator to negotiate a buy-out of the Delmarva Aircraft, Inc. lease in an amount not to exceed \$175,000.

M 355 97 Motion Adopted: 4 Yea, 1 Nay.  
(con't)

Vote by Roll Call: Mr. Cole, Nay; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

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

1. Extended Hours

The following activities took place on Wednesday, July 9, 1997:

- (a) Recorder of Deeds - Two phone inquiries from 7:30 to 8:30 a.m., one phone inquiry after 4:30 p.m.;
- (b) Treasury Division - No activity from 7:30 to 8:30 a.m., one telephone call from 4:30 to 7:30 p.m.;
- (c) Utility Billing - No activity;
- (d) Clerk of the Peace - One wedding license issued and four weddings from 4:30 to 7:30 p.m.;
- (e) Planning and Zoning - No activity from 7:30 to 8:30 a.m., five building permits issued from 4:30 to 7:30 p.m.;
- (f) Assessment Division - Two tax releases and three plans submitted to Building Code from 4:30 to 7:30 p.m.

2. Veril J. Blake and Cindy E. Brasure v. Sussex County Council and Eric H. Ritter and Gladys M. Knox

The Court of Chancery has ruled in favor of the Sussex County Council regarding a suit brought by Veril J. Blake and Cindy E. Brasure. The plaintiffs were represented by Robert V. Witsil, Jr., of Georgetown. The County was represented by Dennis L. Schrader, and the applicants for the rezoning, Mr. Ritter and Ms. Knox, were represented by John A. Sergovic, Jr., and Lynn R. O'Donnell as lead attorney.

In January 1995, individual defendants Knox and Ritter filed a Conditional Use application for a 5.7 acre parcel located near Williamsville, Sussex County, Delaware. Mr. Ritter proposed to establish a marina business on the parcel, including dry boat storage, sales, and service.

Adminis-  
trator's  
Report  
(con't)

The plaintiffs, Blake and Brasure, who live directly across from and adjacent to the Knox property, testified against the application. Their testimony included that they felt that the zoning should not be granted as a Conditional Use, but that it should be Light Industrial or Heavy Industrial.

On Tuesday, July 15, 1997, Vice Chancellor Steele ruled that the Council's action was proper and will not be invalidated. Plaintiffs' motion for summary judgment on their request for a permanent injunction or for declaratory relief was denied. The defendants' motion for summary judgment was granted.

M 356 97 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to  
Council- give \$250.00, \$50.00 from each Councilmanic Account, to the  
manic Sussex County Lifesaving Association for participation in the  
Grant USLA National Lifesaving Competition in San Diego, California.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

M 357 97 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to  
Council- give \$250.00 from Mr. Cole's Councilmanic Account to the  
manic Sussex County Lifesaving Association for participation in the  
Grant USLA National Lifesaving Competition in San Diego, California.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

M 358 97 A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give  
Council- \$100.00 from Mr. Jones' Councilmanic Account to the National Pre-  
manic Teen Corporation for Megan Gorman's participation in the National  
Grant Pre-Teen Pageant.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Yea

M 359 97 At 12:32 p.m., a Motion was made by Mr. Collins, seconded by  
Recess Mr. Jones, to recess until 1:30 p.m. Motion Adopted by Voice  
Vote.

Reconvene Mr. Dukes called Council back into session at 1:40 p.m.

Workshop/  
DelDOT  
Draft  
State-  
wide  
Access  
Manage-  
ment  
Policy

A Workshop was held regarding the Delaware Department of Transportation Draft Statewide Access Management Policy. In attendance from the Delaware Department of Transportation were The Honorable Anne P. Canby, Secretary; Mr. Ralph Reeb, Assistant Director of Planning; Mr. Joel Leidy, Subdivision/Utilities Engineer, and Mr. Joseph Cantalupo, Transportation Planning Supervisor. This Policy describes how transportation access shall be provided to properties located along Delaware's streets, roads and highways. The policy provides guidance regarding how efficient transportation access, including automobile, public transportation, bicycle and pedestrian access, shall be considered during the review of development and entrance applications. It sets forth highway access management policies, procedures and standards required to protect public safety, maintain efficient transportation operations, maintain highway right-of-way drainage, protect the functional integrity of the State's arterial highways, and provide reasonable access to abutting property. Public Hearings on the Draft Policy are scheduled for August 4th in New Castle County, August 5th in Kent County, and August 7th in Sussex County.

M 360 97  
Adjourn

A Motion was made by Mr. Collins, seconded by Mr. Jones, to adjourn at 2:55 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council