

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 29, 1998

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, September 29, 1998, at 10:10 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
George J. Collins	Member
Lynn J. Rogers	Member

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

M 430 98      A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Approve Agenda      approve the Agenda, as presented.

Motion Adopted: 5 Yea.

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

M 431 98      A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Approve Minutes      approve the minutes of the previous meeting, dated September 22, 1998.

Motion Adopted: 5 Yea.

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

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

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

RE: Legal Notice of Public Hearing on applications filed by Star Enterprise to produce and market reformulated gasoline by the year 2000 (RFG 2000 Project).

RE: Public Workshop Notice on planned amendments to existing air pollution regulations in the State of Delaware "Regulations Governing the Control of Air Pollution".

CAROL SENERCHIA, DAGSBORO, DELAWARE.

RE: Comments on issues presented at the Delaware Department of Transportation's Capital Improvement Program meeting.

Patrick  
Founda-  
tion

Mr. Stickels, County Administrator, and Mr. Striebel and Mr. Butler of the Patrick Foundation, reviewed a list of activities that have taken place at the Sussex County Industrial Airpark by the Patrick Foundation since May 1, 1998, including but not limited to the following: payment of \$50,000 to the Sussex County Council for the right of selling fuel; payment of \$12,000 for rent, covering a six-month period; purchase of Sussex Aero Maintenance, Inc. to expand mechanical service to include larger airplanes; negotiating a car rental lease agreement with Avis; the hiring of a Director of Technical Education, an Avionics Specialist, a General Manager, a Chief Pilot, a Chief Mechanic, a Manager of Fuel Services, Fuel Attendants, and a Manager of Administrative Services.

Sussex  
Aero  
Mainten-  
ance

Mr. Stickels, County Administrator, presented a proposal to amend the existing lease with Sussex Aero Maintenance, Inc. (owned by the Patrick Foundation), as follows:

1. To pay a premium of 3 cents for every gallon of aviation fuel sold, 100 low lead, and a premium of 8 cents for every gallon of jet fuel sold.
2. To amend the existing lease to allow for expansion of the existing building housing Sussex Aero Maintenance, Inc. at the sole cost of Sussex Aero Maintenance, Inc., contingent on the approval of FAA.

Patrick  
Founda-  
tion

Mr. Stickels, County Administrator, presented the following proposals relating to the Patrick Foundation:

1. Lease an additional acre of land to the Patrick Foundation at a cost of \$3,000 for the first year with the lease to increase starting the second year. The increase will be calculated on the consumer price index increase. The term of the lease will be 15 years, with two five-year options.

This additional land will allow for additional repair facilities, as needed.

2. Amend current lease to allow for the construction of an addition to the current Terminal Building. The cost of the addition will be the sole responsibility of the Patrick Foundation. Construction will start within two years and will be completed within one year of starting construction.
3. Amend the premium being paid on fuel from 12 cents a gallon for aviation fuel, 100 low lead, to 3 cents a gallon, and reduce jet fuel from 12 cents a gallon to 8 cents a gallon.

Patrick Foundation (con't) 4. Amend lease agreement requiring \$5 million of liability insurance to \$1 million. The Patrick Foundation will not be required, but will investigate on their own, adding an umbrella to the \$1 million policy.

M 432 98 A Motion was made by Mr. Rogers, seconded by Mr. Jones, that Authorize the Sussex County Council authorizes the President of the Lease & Lease Patrick Foundation for the leasing of one acre of land and Amend- amendments to the Patrick Foundation Lease Agreement and the Patrick Foundation & Sussex Aero Maintenance, Inc. Lease Agreement, as described, contingent on approval of the Assistant County Attorney.

Motion Adopted: 5 Yea.

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

State of Delaware Motor Fuel Tax Mr. Stickels, County Administrator, and Mr. Striebel of the Patrick Foundation, discussed the State of Delaware's motor fuel tax. This tax is assessed on general aviation fuel for the smaller airplanes (100 low lead fuel) and is attached at the point of distribution by the distributor. Although rebates can be filed for this tax when fuel for airplanes is purchased, this tax places Sussex County Airport at a .25 cent profit margin disadvantage per gallon as pilots are willing to fly to Salisbury or Ocean City to avoid the tax and related paper work. Eliminating this tax on airplane fuel would require a change in State legislation.

Building Code Appeal Board Mr. Stickels, County Administrator, advised Council that the terms of two members of the Building Code Appeal Board have expired - the terms of Arthur Marvel and Ann Jones. Both of these individuals have expressed an interest in being re-appointed.

M 433 98 A Motion was made by Mr. Collins, seconded by Mr. Rogers, to Reappoint Arthur Marvel and Ann Jones to the Building Code Building Code Appeal Board for a term of four years.

Motion Adopted: 5 Yea.

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

M 434 98 A Motion was made by Mr. Collins, seconded by Mr. Jones, to Adopt the Proclamation entitled "PROCLAIMING OCTOBER 9, 10, AND 11, 1998, AS 'LIONS VISION DAYS' IN SUSSEX COUNTY".

Motion Adopted: 5 Yea.

M 434 98 (con't) Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Collins, Yea; Mr. Jones, Yea;  
Mr. Dukes, Yea

Adminis- Mr. Stickels, County Administrator, read the following informa-  
trator's tion in his County Administrator's Report:  
Report

1. Change of Zone No. 1346, DMV Partnership

Mr. Lawrence Lank, Director of Planning and Zoning, has approved the request of Mr. James A. Fugua, Jr., attorney representing DMV Partnership, to withdraw their zoning application. DMV Partnership had proposed to build a 100-unit motel at the intersection of Route 360 and Route 1 north of the town limits of Bethany Beach. The Planning and Zoning Commission had recommended denial. The County Council had not yet held a public hearing. DMV Partnership may reapply at any time.

2. FY '99 CDBG Public Hearings/Meetings Schedule

Included with this report is a list of public hearings that will be conducted by Mr. William Lecates, Director of the Sussex County Community Development and Housing Division. Thirteen towns have asked for Mr. Lecates' help in applying for CDBG funding. Last year Mr. Lecates was successful in obtaining over \$1 million for Sussex County communities. It is not necessary for the County Council to attend every hearing; however, Council members may want to attend meetings in their councilmanic district.

3. Bonnie E. Gregory

It is with great sadness that I inform Council of the untimely death of Bonnie E. Gregory on Wednesday, September 23, 1998. Ms. Gregory had been employed with the County since May 9, 1979, when she was hired as a Clerk for the Court of Chancery. On October 19, 1981, she was promoted to her current position as Chief Deputy, Register in Chancery, by Vice Chancellor Grover C. Brown.

4. West Rehoboth Phase III Capitalization Fees

On September 29, 1998, capitalization fee bills will be mailed to property owners within Phase III of the West Rehoboth Sewer Project. Bill amounts are based on parcel size as follows: \$250 (5,000 square feet and less), \$375 (5,001 square feet to 9,999 square feet), or \$500 (10,000 square feet and above). These rates are the same as those charged for Phase I and Phase II property owners. For improved lots, this bill will not be due until connection to the sewer system occurs or approximately September 30, 2000,

Adminis-  
trator's  
Report  
(con't)

whichever occurs first. Partial payments through the due date will be accepted. Low income residents may qualify for a deferral. As for Phase I and II, these rates are 75 percent less than originally proposed due to the savings realized from a low interest loan from the U.S. Department of Agriculture.

Old  
Business  
Change  
of Zone  
No. 1342

Change of Zone No. 1342 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A M MARINE DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.07 ACRES, MORE OR LESS" filed on behalf of North Beach, L.L.C. was discussed. A Public Hearing was held by the Sussex County Council on this Proposed Ordinance on September 1, 1998, at which time the Public Hearing was closed and action was deferred. The record was left open for the submission of the receipt of the recorded deed and the conforming copy of the deed filed.

M 435 98  
Adopt  
Proposed  
Ordinance  
(Change  
of Zone  
No. 1342)

A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A M MARINE DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.07 ACRES, MORE OR LESS" (Change of Zone No. 1342) filed on behalf of North Beach, L.L.C.

Motion Denied: 4 Nay, 1 Yea.

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

Findings  
of Fact

The Council found that the change of zone was not appropriate legislative action based on the following findings of fact:

1. The proposed use of a sailing and sports facility, clubhouse/restaurant, and 18-room hotel in a Marine District is out of character with the surrounding zoning.
2. Route 360 has significant flooding problems not only during nor'easters, but on occasion with just normal heavy rain storms.
3. The Delaware State Planning Coordination Office opposed the rezoning because the site is in a high hazard flood prone area.
4. The concerned area is not suitable for increased boat activity because of the shallow depth of the Salt Pond.

Findings  
of Fact  
(con't)

5. Although the site is located in the Development District in the Sussex County Comprehensive Plan, the Plan discourages commercial uses within residential areas other than neighborhood shopping and businesses which are served by the residential development.
6. The recommendations of the Planning and Zoning Commission that the proposed rezoning is not suitable for the site, and the proposed use is not in character with the surrounding and nearby MR residential communities are adopted herein.

Concerns

Mr. Rogers expressed concern regarding the enforcement of zoning violations and loop-holes that exist in the County's ordinance relating to manufactured home placement.

M 436 98  
Council-  
manic  
Grant

A Motion was made by Mr. Collins, seconded by Mr. Jones, to give \$500.00, \$250.00 each from Mr. Dukes' and Mr. Collins' Councilmanic Accounts, to the Lions Vision Research Foundation for the Low Vision Research and Development Center at the Johns Hopkins Wilmer Eye Institute.

Motion Adopted: 5 Yea.

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

M 437 98  
Council-  
manic  
Grant

A Motion was made by Mr. Collins, seconded by Mr. Jones, to give \$250.00 from Mr. Jones' Councilmanic Account to the Grandslam Softball Team for traveling expenses to the Mens Class A National Modified Tournament in Meadsville, Pennsylvania.

Motion Adopted: 5 Yea.

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

M 438 98  
Recess

At 11:28 a.m., a Motion was made by Mr. Collins, seconded by Mr. Jones, 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.

Absent

Mr. Rogers and Mr. Bayard were not in attendance during the afternoon session.

Public  
Hearing

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

Public Hearing (C/Z No. 1347) (con't) C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.27 ACRES, MORE OR LESS" (Change of Zone No. 1347) filed on behalf of Integral Marketing Partners, Inc., t/a Rosses Rides. The Planning and Zoning Commission recommended approval of this application at their meeting held on September 10, 1998. There were no public comments and the Public Hearing was closed.

M 439 98 Adopt Ordinance No. 1263 (C/Z No. 1347) A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1263 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 0.27 ACRES, MORE OR LESS" (Change of Zone No. 1347) filed on behalf of Integral Marketing Partners, Inc., t/a Rosses Rides.

Motion Adopted: 4 Yea, 1 Absent.

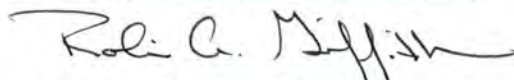
Vote by Roll Call: Mr. Cole, Yea; Mr. Jones, Yea;  
Mr. Collins, Yea; Mr. Rogers, Absent;  
Mr. Dukes, Yea

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

1. The applicant established by substantial evidence that the change of zone is corrective in nature and will bring the applicant's entire property into zoning conformity without impact of any sort on the surrounding areas.
2. The change of zone is consistent with the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 440 98 Adjourn A Motion was made by Mr. Collins, seconded by Mr. Jones, to adjourn at 1:44 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council