



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 30, 2007

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 30, 2007 at 10:00 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
Vance Phillips	Member
Lynn J. Rogers	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney

M 083 06 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the
Amend and Agenda by deleting "Russell Archut, Assistant County Engineer, South
Approve Coastal Regional Wastewater Facilities, Tingle Road Pump Station No. 43
Agenda Improvements, Bid Award" and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 084 06 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the
Approve minutes of January 16, 2006.
Minutes

Motion Adopted: 5 Yea.

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

Corre- **Mr. Griffin read the following correspondence:**
spondence

PAUL ALEXANDER, ADMINISTRATOR, SEAFORD MISSION, SEAFORD, DELAWARE.

RE: Letter in appreciation of the Council's support in 2006.

TERRY RASBERRY, EXECUTIVE DIRECTOR, SUSSEX FAMILY YMCA, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of the Council's gift of \$1,000 to the Strong Kids Campaign.

**Corre-
spondence
(continued)**

MILTON POLICE DEPARTMENT, MILTON, DELAWARE.

RE: Letter thanking the Council for the Local Law Enforcement Grant to purchase a new police vehicle and its required equipment.

THE ANOINTED BREADBASKET MINISTRIES, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's \$500.00 grant for the Annual Feed The People Christmas Dinner.

RORIE HASTINGS.

RE: Letter expressing appreciation to Melissa Massey in the County's Personnel Department for the support and advice she has given to Jeremiah Hastings, an employee of the County, who is a soldier in the United States Army.

**Adminis-
trator's
Report**

Mr. Baker read the following information in his Administrator's Report:

1. Johnson's Corner Sewer Public Hearing – January 27, 2007

On Saturday, January 27, a public hearing was held at the Roxana Fire Hall regarding the proposed boundaries for the Johnson's Corner Sewer District. Approximately 200 people attended the meeting Saturday morning. Comments were received regarding the proposed boundaries, estimated project cost, and projected rates. The County Engineering Department will report to the County Council in the near future regarding this matter.

2. Comprehensive Plan Update – 2007 Public Meetings

Again attached is a copy of the schedule showing the dates of the public meetings for input for the Comprehensive Plan Update. The first meeting was held Monday night, January 29, at the Greenwood Fire Company. The following meetings are scheduled:

- Wednesday, January 31 - Lewes Fire Company**
- Thursday, February 1 - Seaford Fire Company**
- Tuesday, February 6 - Selbyville Fire Company**
- Thursday, February 15 - Bethany Beach Fire Company**

Each meeting begins at 6:00 p.m.

3. **Smoke Detector Program**

As per the attached press release, approximately 200 smoke detectors donated by Lowe's Home Improvement, Inc., are available for individuals who need them. Anyone interested may contact Mr. Frank Shade at 854-5382 or stop by the lobby of the County Administrative Office Building, Monday through Friday.

Adminis-
trator's
Report
(continued)

4. **Beneficial Acceptance**

The Engineering Department has granted Beneficial Acceptance to the following projects:

- The Inlet at Pine Grove a/k/a White Creek Landing/Waterside, Agreement No. 400, was granted Beneficial Acceptance on January 23, 2007. The developer is Robert Burns, Waterside, L.L.C., and the project is located on County Road 357 in the Ocean View Expansion of the Bethany Beach Sanitary Sewer District, consisting of 37 single-family lots.
- The Greens, Agreement No. 363, was granted Beneficial Acceptance on January 24, 2007. The developer is Rich Polk, Ellis Point, L.L.C., and the project is located on County Road 346 in the Holts Landing Sanitary Sewer District, consisting of 72 single-family lots.
- Summercrest, Agreement No. 385, was granted Beneficial Acceptance on January 25, 2007. The developer is Steve Anderson, Munson Street, LLC, and the project is located on Route 24 and County Road 275 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 98 single-family homes.

Included with this report is a fact sheet on each of the projects.

5. **Glenn Luedtke – Vice Chair for DEMSOC**

On January 19, 2007, Mr. Glenn Luedtke, County Paramedic Director, was appointed Vice Chair of the Delaware Emergency Medical Services Oversight Council (DEMSOC). This Council makes recommendations for improvements to the EMS system to the Governor and State legislature. Every five years there is a full review of the State program.

We would like to congratulate Mr. Luedtke on this important appointment. Mr. Luedtke's experience will serve the State well in

this capacity.

Comprehensive Annual Financial Report	Mrs. Webb presented Sussex County's <u>Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2006.</u>
Comprehensive Annual Financial Report (continued)	<p>Mrs. Webb recognized the following County staff members that have helped prepare the report: Gina Jennings, Kathy Roth, Bill Townsend, Chris Parker, Chip Guy, and Jeff James. Mrs. Webb also recognized Elaine Graves and Jean Schmidt of Jefferson, Urian, Doane & Sterner, P.A., the County's auditing firm.</p> <p>Mrs. Webb announced that for the past four consecutive years, the County has received a "Certificate of Achievement for Excellence in Financial Reporting". In order to be awarded a Certificate of Achievement, a government must publish an easily readable and efficiently organized comprehensive annual financial report. The report must satisfy both generally accepted accounting principles and applicable legal requirements. The County's Report has been submitted to the Government Finance Officers Association (GFOA) for consideration. Mrs. Webb advised that this is the highest recognition that can be received in financial reporting.</p> <p>Mrs. Graves of Jefferson, Urian, Doane & Sterner, P.A. commented on the County's strong financial position, which is a result of the County's "excellent budgeting techniques".</p>
Wastewater Agreements	Mr. Godwin presented Wastewater Agreements for the Hopkins-Pettyjohn Subdivision.
M 085 07 Execute Wastewater Agreements/ Hopkins-Pettyjohn Subdivision	<p>A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 446-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and ADC Builders for wastewater facilities to be constructed in the Hopkins-Pettyjohn Subdivision, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.</p> <p>Motion Adopted: 5 Yea.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
911 Re-addressing Project Update	<p>Eddy Parker, Director of Assessments, updated the Council on the 911 Readdressing Project. He stated that, within the next two weeks, the County will deliver the remaining addresses in the County. Mr. Parker reported that over 127,000 addresses have been created and delivered.</p> <p>Mr. Parker stressed that, although the initial addressing project will soon be</p>

completed, the next task will be to get the public to respond to the County with their phone numbers to match with their 911 addresses. An address and phone number match will enable emergency responders to match an incoming call to an address, even if the caller is unable to speak. Mr. Parker announced that the County will undertake some public service announcements and an ad campaign to get this important message out to the public.

911 Re-addressing Project Update (continued)

Mr. Baker stated that the County would like to identify the properties where the link between an address and a phone number does not exist, so that those property owners can be contacted. Once the information is received, it will be forwarded to Verizon.

In response to questions raised by the Council, Mr. Parker advised that the County needs 95 percent of homes and businesses in the County to have a verified 911 address and phone number for its Enhanced 911 System to work properly. Once this percentage is achieved, 911 calls can be steered to the appropriate 911 Center. Mr. Parker announced that Verizon has reported that the County currently has a 54.5 percent match rate.

The Council discussed different options of notifying the public that phone numbers must be submitted to the County to match with the 911 addresses. Options include a mass mailing; assistance by the media, fire departments and post offices; public announcements/ad campaign through the summer months; notices to accompany tax bills; requesting that phone numbers be filled out on all tax bills; visiting residences; and charging a fee if the information is not submitted in a timely manner.

Mr. Parker stated that as part of the Mapping and Addressing Ordinance, the County is permitted to impose a penalty if a resident does not display their 911 address; however, no penalty was established for not supplying the necessary information.

Mr. Parker noted that new development is not a problem because the information is required before phone service is provided. Mr. Parker also noted that problems exist throughout the entire County where people have chosen not to respond.

Donna Pusey and Buddy Lynch, Supervisors of the Addressing Project, were also in attendance for the presentation and discussion.

Terry Whitham, 911 Administrator for the State of Delaware, was also present. He emphasized two points: public education and imposing a penalty. He stated that the post offices could do what the Lewes Post Office did - refuse to deliver mail to someone if they do not change to their new 911 address within a certain period of time. He suggested that the County Council adopt a Resolution requesting that the post offices enforce this requirement.

Old Business (C/U No. 1722) **The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (4 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 17,500 SQUARE FEET MORE OR LESS” (Conditional Use No. 1722) filed on behalf of West Rehoboth Community Land Trust.**

Old Business (C/U No. 1722) (continued) **Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the application on December 7, 2006 at which time action was deferred; on January 11, 2007, the Commission recommended that the application be approved with seven (7) conditions.**

The County Council held a Public Hearing on this application on January 9, 2007 at which time action was deferred.

M 086 07 Adopt Ordinance No. 1891 (C/U No. 1722) **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1891 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (4 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 17,500 SQUARE FEET MORE OR LESS” (Conditional Use No. 1722) filed on behalf of West Rehoboth Community Land Trust, with the following conditions:**

- 1. Only four units shall be constructed upon the property. These units shall be in the form of two separate buildings with two units in each.**
- 2. The project shall be subject to the approval of the Sussex County Engineering Department. The applicant shall be required to design, fund and construct any upgrades to the County sewer system that are necessary to serve the four units.**
- 3. The project shall not exceed the County’s height and setback requirements.**
- 4. The two buildings shall be designed to resemble single family dwellings. An example of this would be a separation of the entrances so that no two entrances are on the same side of the buildings.**
- 5. At the time of site plan approval, the applicant shall also submit front, side and rear elevation drawings of the buildings to the Planning and Zoning Commission.**
- 6. The site plan shall include redesigned parking spaces to comply with County Ordinances and to prevent or limit backing onto streets from the site.**

7. The site plan shall be subject to the approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

**M 086 07
(continued)**

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

**Lochwood
Subdivision
Proposed
Suburban
Community
Improve-
ment
Project**

Patty Deptula, Assistant Director, Public Works Division, presented a proposal for a Suburban Community Improvement Project in the Lochwood Subdivision. She reported that the Property Owners Association requested to be included in the program for roadway improvements; valid petitions were received from over fifty percent of the property owners with street frontage within the proposed project area. A preliminary cost estimate was presented to the Association in the amount of \$664,054.54. Mrs. Deptula reported that the Association would provide perpetual maintenance of the proposed improvements. Following approval by the Council, more detailed costs estimates will be presented to the Association, after which time an election would be held to determine if the project will proceed. Mrs. Deptula noted that a portion of the development is not included in the project since that portion of the development was constructed in 2005 and road replacement is not necessary; residents in this area would not have to pay the assessment charges (with the exception of some corner lots).

**M 087 07
Accept
Lochwood
Subdivision
in the
Suburban
Community
Improve-
ments
Program**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Lochwood Subdivision, located in Indian River Hundred, qualifies as a Suburban Community as defined under Title 9, Chapter 5, of the Delaware Code, and further, that valid petitions have been received from freeholders of property representing more than fifty percent of the property with street frontage within the proposed project area of the community and that Lochwood Subdivision be accepted in the Suburban Community Improvements Program and that plans, specifications, and cost estimates be compiled, after which an election shall determine whether the County shall proceed to finance the proposed improvements.

Motion Adopted: 5 Yea.

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

**Land of
Pleasant**

Patty Deptula presented a proposal for the Land of Pleasant Living Streetlighting District. She reported that the County received a request

Living Proposed Street- lighting District	from the property owners to look into the possibility of forming a streetlighting district. She also reported that once the Council has authorized the circulation of petitions, the petitions would be mailed to the property owners, detailed estimates of costs and charges for streetlighting would be obtained, and a public meeting would be held with the property owners to submit the question of organizing a Streelighting District. With the Council's approval, an election would be held to determine if the project will proceed.
M 088 07 Authorize Circulation of Petitions for Land of Pleasant Living Street- lighting District	A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council has determined that the subdivision known as the Land of Pleasant Living satisfies the criteria of a Suburban Community, as defined in the Sussex County Code, Chapter 95, Streetlighting, Paragraph 95-1, and authorizes the Sussex County Engineering Department to circulate petitions, as required by Chapter 95 of the Sussex County Code, for the purpose of determining if there is sufficient interest in the Subdivision to form a Sussex County Streetlighting District. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
Requests	Mrs. Webb presented grant requests for the Council's consideration.
M 089 07 Council- manic Grant	A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 from Mr. Dukes' Councilmanic Grant Account to the City of Seaford for the Nanticoke Riverfest. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
M 090 07 Community Improve- ment Grant	A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$5,000.00 from Mr. Cole's Community Improvement Grant Account to the Town of Millville for signs and holiday banners and decorations. Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea
M 091 07 Council- manic Grant	A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Cole's Councilmanic Grant Accounts) to the Indian River Baseball Boosters for the purchase of new equipment.

Motion Adopted: 5 Yea.

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

M 092 07 Youth Activity Grant A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$300.00 from Mr. Rogers' Youth Activity Grant Account to the People to People Ambassador Program for Ricky Yakimowicz, II of the Sussex Academy of Arts and Sciences.

Motion Adopted: 5 Yea.

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

M 093 07 Youth Activity Grant A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$300.00 (\$150.00 each from Mr. Dukes' and Mr. Phillips' Youth Activity Grant Accounts to the People to People Ambassador Program for DeEnna Wedding of the Laurel Intermediate School.

Motion Adopted: 5 Yea.

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

M 094 07 Community Improvement Grant A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$500.00 from Mr. Rogers' Community Improvement Grant Account to the City of Lewes for the restoration of a train car associated with the Queen Anne Railroad.

Motion Adopted: 5 Yea.

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

**Additional Business/
Public Comments** Under *Additional Business*, Daniel Kramer questioned the "Audit" presented by Mrs. Webb. He noted that the County has had the same Accounting Firm for years and that State Law requires that a different firm be selected "every so many years". Mr. Kramer stated that, last year, the County overspent its Grant-in-Aid Program by \$4.3 million and the Operating Budget by millions of dollars.

Under *Additional Business*, Richard Anthony of Milford questioned how the

3 percent Transfer Tax is distributed (1 1/2 percent to the State and 1 1/2 percent to the County). He stated that the County's Realty Transfer Tax and Real Estate Taxes comprise almost 60 percent of the total income. He asked the Council to consider reducing taxes to stimulate growth in industrial and commercial business. Mr. Anthony also commented that Sussex County does not have enough restraints and controls on residential builders.

**Additional
Business/
Public
Comments
(continued)**

Under *Additional Business*, Will Fox advised the Council that DelDOT is coming back to the Lincoln-Milford area on Wednesday, January 31st, to announce the results of their study. Mr. Fox stated that they were surprised in the Lincoln-Milford area that the map of the Milford Bypass has already been drawn up by the County. Mr. Fox asked if there was any reason why the map was drawn favoring one of the six proposed routes by DelDOT.

Mr. Baker responded that Mr. Fox was referring to the County's presentation to DelDOT at the public meeting and that it was not the County's intent to recommend a particular route, it was just to tell DelDOT that the County believes there is a need for the Route 113 Project.

Mr. Fox stated that "there is a very strong rumor that they (DelDOT) will make a decision that will be identical to the map that you (the County) have projected, well in advance, even though they have said that by Federal regulation they cannot make any decision until they have gone through the full process".

**M 095 07
Recess**

At 11:47 a.m., a Motion was made by Mr. Jones, seconded by Mr. Rogers, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Dukes called the Council back into session at 1:36 p.m.

**Public
Hearing
(C/U
No. 1675)**

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 EXPANSION OF EXISTING MANUFACTURED HOME COMMUNITY (82 ADDITIONAL LOTS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20.79 ACRES, MORE OR LESS" (Conditional Use No. 1675) filed on behalf of Colonial East, LTD.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on January 11, 2007 at which time the Commission deferred action following a Failed Motion to deny the application.

(See the minutes of the meeting of the Planning and Zoning Commission dated January 11, 2007 for additional information on the application, correspondence received, the Public Hearing before the Commission, and the Commission's recommendation of approval.)

Mr. Lank read a summary of the Commission's Public Hearing. The summary was admitted as part of the Council's record.

Mr. Lank provided the Council with a copy of Ordinance No. 1187, the Conditional Use application filed on behalf of Colonial East, Ltd. which was approved by the Council on October 21, 1997 with nine conditions.

**Public
Hearing
(C/U
No. 1675)
(continued)**

Mr. Lank provided the Council with a copy of a letter from the Sussex County Engineering Department received on this date and signed by Rob Davis of the Utility Planning Division. The letter makes reference to the application, the number of units, and the site location. The Engineering Department made the following comments: that the sewer capacity for the site is four units/acre; that the project is located in the West Rehoboth Expansion Area; that wastewater capacity is not available (previously approved 108 lots); that Ordinance 38 construction would be required; that the current System Connection Charge Rate is \$3,911.00 per EDU; that the main line sewer must be extended to serve the proposed project; that conformity to the North Coastal Planning Area Study and the Graves Property Technical Memorandum, or undertaking an amendment, will be required; that upgrades to downstream sewer and Pump Station No. 207 would be necessary to provide adequate capacity in accordance with a letter dated April 26, 2006 from John Ashman, Director of Utility Planning; that Pump Station No. 207 is currently running at capacity; that further evaluations and design at the developers' expense is required to determine what upgrades are required to serve the project; that developers of the Graves property and/or the Vineyards may undertake the upgrades; that there may be an opportunity for the developer of Sussex West to participate in those upgrades; that the schedule for completion of the upgrades is not known at this time; that the proposed development addition will require a developer installed collection system in accordance with Sussex County standard requirements and procedures; that the Sussex County Engineer must approve the connection point; and that the Sussex County Engineering Department requires that a Sewer Conceptual Plan be submitted for review and approval.

Mr. Lank noted that the Engineering Department made no response as to whether the project is capable of being annexed into the sanitary sewer district.

In response to questions raised by Mr. Cole, Mr. Lank stated that the site of this conditional use application was a part of the original application containing 55.29 acres.

Mr. Griffin read seventeen letters of support into the record.

The Council found that Steven Class of Colonial East, Ltd. was present with Heidi Balliet, Attorney, and Brian Pinkerton and Kevin Burdette of McCrone, Inc. They stated in their presentation and in response to

Public
Hearing
(C/U
No. 1675)
(continued)

questions raised by the Council that the purpose of the application is to extend the existing manufactured home park; that they propose 82 additional lots for lease only, subject to restrictions; that the minimum lot size is 5,000 square feet; that the average lot size is 7,000 square feet; that the net density is 3.4 units per acre; that no retail sales or commercial uses are proposed; that this is an appropriate site for a conditional use; that the property was originally approved for the conditional use in 1985 and subsequently amended in 1997; that access to the site is from a public highway known as Minos Conaway Road; that there will be no direct access from any lots to Route 9 or Minos Conaway Road; that, as required by the Sussex County Code, the applicant has addressed all the items set forth in Section 115-72G relating to mobile home park conditional uses; that the project is for a restricted community for ages 55 and older; that a need has been shown for additional lots by the waiting list being maintained by the applicant; that the applicant will work with DelDOT to minimize the traffic impact in the area; that the traffic impact will be minimal based on the fact that there are currently two entrances that serve the community and they were planned with the number of units that are being proposed to be added; that the property is currently served by central water and sewer; that the addition of 82 units would only require minor adjustments to the pump station; that the proposed expansion would take 40 – 48 months to build out; and that they have not yet responded to the PLUS comments.

Mr. Pinkerton of McCrone, Inc. displayed an aerial comparison of the site in 1997 and in 2006, showing the development trend in the area. In proximity to the proposed expansion project, there are four developments (Nassau Grove, the Reserves at Lewes Landing, Mills Chase and Brittany Acres) that are either constructed or under construction, which were not present in 1997.

Ms. Balliet submitted proposed conditions and findings of fact for the Council's consideration.

Public comments were heard.

Tom Fitzgerald, Carmen Leto, and Katie Thompson were present in support of the application. They stated that the community is well maintained, that it is a safe neighborhood, and that it provides affordable, quality housing for senior citizens.

Wayne Baker, was present in opposition to the application. Mr. Baker stated that he lives on Minos Conaway Road; that he is not in opposition to the existing park but that he does oppose the proposed expansion; that the area residents knew when the original application was approved that the applicant would be back with an expansion request; that he questions if the applicant should file a new application instead of a conditional use application for an expansion; that the applicant had his opportunity to develop the property in 1997 and approval was received for 108 units; that he chose to put the homes on 30 acres; that numerous accidents occur at

Route 9 and Minos Conaway Road; that there are still no shoulders on Minos Conaway Road; that DelDOT will have to approve the entrance again; that there is a stormwater issue – stormwater from Colonial East flows over into Mills Chase; and that although he is a proponent of property rights, Mr. Class has used his property rights on the 50-acre parcel of land and used them as he saw fit at the time.

**Public
Hearing
(continued)**

Mr. Cole stated that there is no sewer capacity for this project. Mr. Cole expressed concern that this application, if approved, could set a precedent for expansion requests.

**M 096 07
Defer
Action and
Leave
Record
Open on
C/U
No. 1675
DENIED**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Conditional Use No. 1675, filed on behalf of Colonial East, Ltd. and to leave the record open for the receipt of PLUS comments in response to the Applicant's response to the PLUS Review comments.

Motion Denied: 3 Nay, 2 Yea.

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

In response to questions raised by the Council, Mr. Pinkerton stated that they have not responded to the PLUS Review, pending preliminary approval from the County.

Mr. Griffin asked if anyone else wanted to comment on the PLUS review and comments. There were no additional public comments.

**M 097 07
Close
Public
Hearing
and Defer
Action on
C/U
No. 1675**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to close the Public Hearing record and to defer action on Conditional Use No. 1675 filed on behalf of Colonial East, Ltd.

Motion Adopted: 5 Yea.

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

**M 098 07
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 3:09 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**