



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 12, 2008

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 12, 2008 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Finley B. Jones, Jr.	President
Lynn J. Rogers	Vice President
Dale R. Dukes	Member
George B. Cole	Member
Vance Phillips	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney

M 115 08 Amend and Approve Agenda

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to amend the Agenda, as follows:

- by deleting “Old Business – Appeal of Lacrosse Homes of Delaware, Inc. – Subdivision No. 2006-10”
- by deleting “Angola Sanitary Sewer District – Temporary Wastewater Treatment and Disposal – Bid Award”
- by deleting the words “Possible Introduction” from “Discussion and Possible Introduction of the Source Water Protection Ordinance”

and, to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

M 116 08 Approve Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of January 8, 2008.

Motion Adopted: 5 Yeas.

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

Mr. Jones, Yea

**Corre-
spondence**

Mr. Griffin read the following correspondence:

**Corre-
spondence
(continued)**

**GERALD M. MCNESBY, VICE PRESIDENT FOR FINANCE,
DELAWARE TECHNICAL & COMMUNITY COLLEGE, DOVER,
DELAWARE.**

**RE: Letter in appreciation of the County's donations to Delaware Tech in
2007.**

LEWES SENIOR CENTER, LEWES, DELAWARE.

RE: Letter in appreciation of \$25,000 grant for building repairs.

BOYS & GIRLS CLUB, WILMINGTON, DELAWARE.

**RE: Letter in appreciation of \$1,500 grant to Milford's Annual Fund One
Campaign.**

DELAWARE HOSPICE, GEORGETOWN, DELAWARE.

**RE: Letter in appreciation of grant for the 2007 Delaware Hospice Festival
of Trees.**

**M 117 08
Adopt
Procla-
mation**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt the
Proclamation entitled "PROCLAIMING THE MONTH OF FEBRUARY
AS NATIONAL PARENT LEADERSHIP MONTH IN SUSSEX COUNTY".**

Motion Adopted: 5 Yeas.

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

**Source
Water
Protection
Ordinance**

**Mr. Baker presented information on the Source Water Protection
Ordinance. He noted that, at the February 5th meeting, the Council
discussed amendments that were proposed to the draft ordinance. Mr.
Baker explained what is included in the draft that is different from that
which the Source Water Protection Citizen and Technical Advisory
Committee recommended, as follows:**

- Per DNREC, copy impervious surface requirements for Excellent
Recharge Areas to Wellhead Protection Areas.**
- Per DNREC, DNREC and State geologist must approve Wellhead
and Excellent Recharge Areas boundary changes, as well as the
County.**
- Source Water Protection Technical Advisory Committee – ten
members appointed by Council, including five licensed professional
engineers, geologists or hydrologists, instead of 17 on TAC (45
percent DNREC representatives).**
- County Council to decide on variances instead of the Board of**

**Source
Water
Protection
Ordinance
(continued)**

Adjustment.

- Variance request charge to be the same as for the Board of Adjustment (currently \$400.00).
- Ordinance will not apply to previously approved projects which are under construction or projects that have received preliminary site plan approval.

Mr. Baker distributed a copy of the draft ordinance and an outlined summary of the draft ordinance.

A Source Water Protection Citizen and Technical Advisory Committee meeting will be held on February 20th to consider the proposed amendments and any other amendments to the draft ordinance. Mr. Baker advised that, following the Committee meeting, the Council could discuss and consider the draft ordinance at the February 26th meeting.

It was noted that there is a Proposed Storm Water Protection Ordinance which is pending. A Public Hearing was held on the Proposed Ordinance on December 18, 2007; on that date, action was deferred.

Mr. Baker stated that, with the Council's approval, the original Proposed Ordinance and the new Draft Ordinance would be placed on the February 26th Agenda for the Council's consideration.

**Adminis-
trator's
Report**

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

1. **Delaware Department of Transportation – Roxana Road Emergency Road Closure**

As per the attached notice, Delaware Department of Transportation has closed Roxana Road between Bixler Road and Phillips Road near Selbyville on February 7th. The road will re-open on February 20th at 6:00 p.m. after a crossroad pipe is replaced.

2. **Delaware Department of Transportation Public Workshop – Route 24 Love Creek to Route 1**

A Public Workshop will be held on Tuesday, February 26th, from 4:00 – 7:00 p.m. at Midway Baptist Church on Route 24. The purpose of the workshop is to receive public input on corridor improvements from Love Creek to Route 1 on Route 24.

3. **Planning and Zoning Commission Schedule**

Effective March 2008, the Planning and Zoning Commission will begin meeting four times per month on a temporary basis for the purpose of catching up on their backlog of applications.

4. **Presidents' Day and Mid-Winter Holiday**

County offices will be closed on Monday, February 18th, to celebrate the Presidents' Day holiday. Offices will open at 8:30 a.m. on February 19th. The County Council will not meet on February 19th for a winter holiday break. The next County Council meeting will be on February 26, 2008 at 10:00 a.m.

(continued)

Financial Report
Mrs. Webb presented the Quarterly Financial Report as of December 31, 2007. The Report was presented for informational purposes.

Wastewater Agreements
Mr. Godwin presented Wastewater Agreements for the Council's consideration.

M 118 08
Authorize Wastewater Agreement/ Bay Forest Club
A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 478-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bay Forest, L.L.C., for wastewater facilities to be constructed in Bay Forest Club – Phase 1.2, located in the Millville Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 119 08
Authorize Wastewater Agreement/ Bay Forest Club
A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 478-4, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bay Forest, LLC, for wastewater facilities to be constructed in Bay Forest Club (DelDOT work), located in the Millville Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

George-town Air Services/ FBO
Jim Hickin, Director of Airport and Industrial Park Operations, presented an Amendment to the Fixed Base Operator Lease Agreement between Georgetown Air Services, LLC and Sussex County. Mr. Hickin explained that the Lease includes the area around the old terminal building and the area around the fuel farm. The 10 year lease originated in 1998 and was originally with the Patrick Family Foundation, Inc. There was a First

Lease Amend- ment	Amendment to the Lease Agreement in 1999; in 2002, the Foundation assigned the Lease to Georgetown Air Services; in the Second Amendment to the Lease, the County and Georgetown Air Services terminated the portion of the Lease for Lot No. A3-3 and the Hangar built thereon and the County took the building and the space back (for the DTCC hangar).
George- town Air Services/ FBO Lease Amend- ment (continued)	<p>Mr. Hickin explained that the Third Amendment would redefine the property being leased by Georgetown Air Services, with the County taking back approximately 1 1/2 acres; Georgetown Air Services will be compensated for this with a rent reduction of \$9,367 annually. Other changes included in the Lease Amendment are as follows:</p> <ul style="list-style-type: none">• Change the use language for the Lease (all items changed to optional with the exception of “Flight Line Servicing of Aircraft”).• Delete the possible use of the old terminal building as a restaurant.• Delete a requirement for 10 percent of the tie-down fees (for that property only).• Change in insurance requirements. <p>Mr. Hickin stated that the Lease allows subletting with the Council’s permission per the Original Lease.</p>
M 120 08 Authorize Amendment to Lease Agreement/ George- town Air Services	<p>A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Council authorizes its President to execute the Third Amendment to a Lease Agreement with Georgetown Air Services to establish and operate a General Aviation Support Service Facility for Sussex County Airport, Georgetown, Delaware, as presented by Jim Hickin, Director of Airport and Industrial Park Operations.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Change Order/ DTCC Airport Hangar Project	<p>Gene Kelley, Project Engineer, reviewed Change Order No. 1 to the Airport Hangar Project, which will be utilized by Delaware Technical & Community College for the Airframe Maintenance and Technology Building. The building is currently under construction by Richard Y. Johnson & Son. Mr. Kelley reported that the Change Order consists of ten items and results in a cost decrease of \$13,250.75. He also reported that DTCC has agreed to fund one-half of the cost of the fire pump included in this Change Order; with this contribution, there will be a net credit to the County in the approximate amount of \$33,000.00.</p>
M 121 08 Authorize Change	<p>A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the County’s Architectural and Engineering Consultants, Andrew W. Booth, and the Sussex County Engineering Department, that Change Order No. 1 for Sussex County Project No. 07-02,</p>

**Order/
DTCC
Hangar
Project** **Airframe Maintenance and Technology Building, be approved in the credit amount of \$13,250.75 which decreases the total contract sum from \$720,318.00 to \$707,067.25.**

Motion Adopted: 5 Yeas.

**M 121 08
(continued)**

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

**Contract
Amend-
ment/
WR&A/
Standards
and
Specifi-
cations**

Michael Izzo, County Engineer, presented a proposed Contract Amendment with Whitman, Requardt and Associates for a Standards and Specifications Upgrade. He reported that the first proposal would be to modernize the County's Sewer and Water Standards and Specifications (the most recent version was adopted in 1989). Mr. Izzo noted that funds were allotted in the 2008 Budget in the amount of \$85,000.00 for the first half of the Contract Amendment.

Mr. Izzo explained that the second half of the Contract Amendment involves a revision to the County's Road Standards. He advised that the County no longer has standards that match the type of development that is taking place. Mr. Izzo reported that DelDOT has adopted a new version of Standards and Specifications for Private Road Developments. He advised that the County is proposing to review DelDOT's document for consideration in establishing new standards at the County level. He reported that the Engineering Department plans to report back to the Council by June 15th to propose an upgrade to the County's Road Standards.

**M 122 08
Authorize
Contract
Amend-
ment/
WR&A/
Standards
and
Specifi-
cations**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council hereby authorizes its President to execute Contract Amendment No. 32 to its Contract with Whitman, Requardt and Associates, LLP, for the Sussex County Standards and Specifications, at a cost not to exceed \$170,961.00.

Motion Adopted: 5 Yeas.

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

**DFSSD
Project/
Change
Order**

Mr. Izzo presented a Balancing Change Order in the credit amount of \$4,268.56 for the Dagsboro – Frankford Sanitary Sewer District, Delaware Avenue Extended Project. He reported that there was an increase in the contract time by 29 days due to inclement weather.

M 123 08

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the

**Authorize
Change
Order/
DFSSD
Project
M 123 08
Authorize
Change
Order/
DFSSD
Project
(continued)**

Balancing Change Order for Sussex County Contract No. 04-04, Dagsboro-Frankford Sanitary Sewer District, Delaware Avenue Extended, with Bunting and Murray Construction Corporation, be approved, which decreases the Contract by the amount of \$4,268.56 for a new Contract total of \$309,619.01 and increases the Contract time by 29 days, contingent upon the receipt of approval from the funding agencies.

Motion Adopted: 5 Yeas.

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

**Continue
Public
Hearing/
Miller
Creek
SSD/
Bayard
Annexation**

The Public Hearing on the Miller Creek Sanitary Sewer District for the Bayard Annexation was continued from February 5, 2008. The proposed annexation included The Woodlands and The Estuary, which are contiguous to the District. On that date, the County Council deferred action for one week to allow the Engineering Department sufficient time to contact residents of Tanglewood and Oak Acres to determine if they wanted to be included in the annexation and to amend the sewer district boundaries, if necessary. The Public Hearing record remained open.

John Ashman, Director of Utility Planning, reported that, on February 6th, 83 letters were sent to property owners in Oak Acres and Tanglewood and surrounding areas asking them to contact the County as to their wish for sewer service. Fifty-three (53) responses were received; 51 were for inclusion and 2 were against inclusion. Thirty-six (36) of the persons in favor of inclusion were from Oak Acres and ten (10) were from Tanglewood. Also received were requests from the properties next to Tanglewood, which are needed to make them contiguous with the District. Mr. Ashman reported that, with this information, the map of the boundaries of the proposed annexation was revised. Maps were distributed reflecting the additional areas.

Public comments were heard.

Salvatore Grasso of Oak Acres thanked the Engineering Department for its consideration and efforts to provide sewer to Oak Acres.

Christina Criswell of Oak Acres raised questions as to how many residents in New Marydel Park were sent letters.

Mr. Ashman responded that letters were sent to all of the residents of Marydel Park.

Richard Ryan questioned if any of the houses on Millers Neck Road are going to be included in the sewer district.

Mr. Ashman responded that the properties are not included at this time.

Mr. Ashman suggested that, if the residents along Millers Neck Road wish to be included, they should submit letters of request to the Engineering Department.

(continued) There were no additional public comments and the Public Hearing was closed.

**M 124 08
Adopt
R 013 08
Miller
Creek
SSD/
Bayard
Annexation**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Resolution No. R 013 08 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE MILLER CREEK SANITARY SEWER DISTRICT (MCSSD) TO INCLUDE CERTAIN LOTS, PIECES OR PARCELS OF LAND, SITUATED SOUTH OF DOUBLE BRIDGES ROAD, INCLUDING BUT NOT LIMITED TO THE ESTUARY, THE WOODLANDS, AND THE LANDS OF CAMP INC. IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
DFSSD/
American
Legion
Annexation**

A Public Hearing was held on the extension of the Dagsboro – Frankford Sanitary Sewer District to include American Legion Post No. 24 and lands of Rupert Smith, consisting of 3.11 acres.

Mr. Ashman reported that the developer will be responsible for system connection charges in the amount of \$5,635.00 per EDU based on the rates of July 1, 2000 – June 30 2008.

Mr. Ashman reported that a letter was received from Wayne Baker (formerly Mayor of the Town of Dagsboro) advising that, if the Rupert Smith parcel is annexed, the Town may not have leverage to have that parcel annexed into the Town. Mr. Ashman explained that this parcel is needed for the American Legion to be contiguous to the sewer district.

Public comments were heard.

William DeHaven, Code Enforcement Official with the Town of Dagsboro, stated that the two properties are located within the Town’s extended annexation area and he questioned where the main would be located to serve the two properties.

Michael Izzo, County Engineer, stated that the Engineering Department is relying on a proposed commercial development to install the infrastructure that would carry sewer across Route 113 and tie into Clayton Avenue.

In response to questions raised by Mr. Phillips, Mr. DeHaven stated that the Rupert Smith property is contiguous to the Town boundaries and it would

**Public
Hearing/
DFSSD/
American
Legion
Annexation
(continued)**

be a prime candidate for annexation into the Town. He stated that they want to be “on-board” and notified by the County of any applications in their annexation area. Further, he stated, that as presented on this date, the Town would generally be in favor of this sewer extension proposal; however, he noted that this statement requires the Town Council’s confirmation.

Debbie Pfeil from URS Corporation and Senior Planner on behalf of the Town of Dagsboro stated that, on behalf of the Town of Dagsboro, they respectfully request the Council to honor and endorse Dagsboro’s growth and annexation area; that this property is located in the growth area; and that the Town is requesting notification of any development applications located in these areas prior to any County Council action.

Ken Christenbury of Axiom Engineering spoke on behalf of the American Legion. He reported that a sand mound system would cost approximately \$100,000. He reported that in 2006, a letter was received from Assistant County Engineer Russell Archut stating that the Engineering Department could support a holding tank as a temporary interim solution to their needs. Mr. Christenbury reported that they have agency approvals from DNREC and the Army Corp of Engineers and they only need a holding tank permit for Final Site Plan approval from Planning and Zoning. He stated that DNREC will not issue a holding tank permit without a letter from the County or someone else who will provide sewer to the property within five years; and that approval of this proposed annexation will allow the County Engineering Department to provide that letter.

Several representatives from the American Legion were present in support of the proposed sewer extension.

There were no additional public comments and the Public Hearing was closed.

**M 125 08
Adopt
Resolution
R 014 08**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 014 08 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE DAGSBORO – FRANKFORD SANITARY SEWER DISTRICT (DFSSD) TO INCLUDE CERTAIN LOTS, PIECES OR PARCELS OF LAND, SITUATED WEST OF STATE ROUTE 113 AND NORTH OF STATE ROUTE 26, LOCATED IN DAGSBORO HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas.

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

Requests

Mrs. Webb presented grant requests for the Council’s consideration.

M 126 08 Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Delaware Police Chiefs' Council, Inc. for seminar expenses.**

Motion Adopted: 5 Yeas.

M 126 08 Councilmanic Grant (continued)

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

M 127 08 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Delaware Police Chiefs' Council, Inc. for conference expenses.**

Motion Adopted: 5 Yeas.

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

Deferred **Action was deferred on the grant request from Nanticoke Health Services.**

M 128 08 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Cole's and Mr. Phillips' Councilmanic Grant Accounts) to the Delaware Quick Chicks for travel expenses.**

Motion Adopted: 5 Yeas.

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

M 129 08 Councilmanic Grant **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$500.00 from Mr. Dukes' Councilmanic Grant Account to the Downtown Seaford Association for 2007 Christmas parade expenses.**

Motion Adopted: 5 Yeas.

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

M 130 08 Councilmanic Grant **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$400.00 (\$200.00 each from Mr. Rogers' and Mr. Jones' Councilmanic Grant Accounts) to Downtown Milford, Inc. for the Annual Bug & Bud Festival.**

Motion Adopted: 5 Yeas.

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

M 131 08 Councilmanic Grant A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$100.00 from Mr. Jones' Councilmanic Grant Account to the Georgetown Volunteer Fire Department Ladies Auxiliary for a bingo fundraiser.

Motion Adopted: 5 Yeas.

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

M 132 08 Youth Activity Grant A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Cole's Youth Activity Grant Accounts) to the Indian River Baseball Boosters for a new indoor batting cage.

Motion Adopted: 5 Yeas.

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

M 133 08 Councilmanic Grant A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$250.00 from Mr. Jones' Councilmanic Grant Account to the Georgetown Historical Society for conference expenses.

Motion Adopted: 5 Yeas.

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

M 134 08 Councilmanic Grant A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500.00 (\$250.00 each from Mr. Jones' and Mr. Rogers' Councilmanic Grant Accounts) to Milford Memorial Hospital Auxiliary for the Annual Milford Hospital Fair.

Motion Adopted: 5 Yeas.

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

M 135 08 Council- A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Dukes' and Mr. Jones' Councilmanic Grant Accounts) to The Coverdale Crossroad Community Council, Inc. for

**manic
Grant**

conference expenses.

Motion Adopted: 5 Yeas.

**M 135 08
(continued)**

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

**M 136 08
Council-
manic
Grant**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Grant Account to The Auxiliary of Stockley Center to sponsor the Stockley Stride.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1715)**

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 AN OFFICE, PROFESSIONAL SPACE, CAFÉ RESTAURANT, AND MEETING SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.2509 ACRES, MORE OR LESS” (Conditional Use No. 1715) filed on behalf of Good Earth Market, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on January 24, 2008, at which time the Commission deferred action for further consideration and for the staff to provide Vince Robertson, Assistant County Attorney, a copy of the Ordinance that approved the original Conditional Use.

(See the minutes of the meeting of the Planning and Zoning Commission dated January 24, 2008 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

David and Susan Ryan were present on behalf of the application. They stated that they have an existing health food store and an organic farm; that there is a lot of public support; that they propose to construct an additional building for use as a yoga studio, as offices for a naturopathic doctor and acupuncturist, and a café; that the site is adjacent to a site where Beebe Medical Center is proposing a new facility; that their proposal would be compatible with Beebe’s plans; that they would need an illuminated sign; and that they would have 10 employees as a result of the proposed

expansion.

Public comments were heard.

**Public
Hearing
(continued)**

Donna Streletzky, Vice President of Operations for Beebe Medical Center, stated that Beebe Medical Center supports the proposed project.

The Public Hearing was closed.

**M 137 08
Defer
Action
on C/U
No. 1715**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to defer action on Conditional Use No. 1715 filed on behalf of Good Earth Market, LLC.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1719)**

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 PROFESSIONAL OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.62 ACRES, MORE OR LESS” (Conditional Use No. 1719) filed on behalf of Daniel D. Ruppert, Jr.

The Planning and Zoning Commission held a Public Hearing on this application on January 24, 2008, at which time the Commission deferred action for further consideration and to verify if any deed restrictions exist.

(See the minutes of the meeting of the Planning and Zoning Commission dated January 24, 2008 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

Mr. Lank advised that, as of this date, no information has been received as to the deed restrictions.

Robert Hickin was present on behalf of the Applicant. He stated Mr. Ruppert proposes a small contractors business within the existing dwelling; that Mr. Ruppert’s wife wants to do bookkeeping for local businesses within the existing dwelling; and that no additional construction is proposed.

Mr. Lank advised that the Applicant previously stated that a part-time employee may be hired on an as-needed basis.

There were no public comments and the Public Hearing was closed.

M 138 08

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to defer action on Conditional Use No. 1719 filed on behalf of Daniel D. Ruppert, Jr.

Motion Adopted: 5 Yeas.

M 138 08

C/U

No. 1719

Deferred

(continued)

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

Public

Hearing

(C/U

No. 1774)

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO DELETE AND/OR MODIFY THE CONDITIONS IMPOSED IN ORDINANCE NO. 1445 FOR CONDITIONAL USE NO. 1379, THE APPLICATION OF ROBINO SEA CHASE, LLC” (Conditional Use No. 1774) filed on behalf of Robin Sea Chase, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on January 24, 2008, at which time the Commission deferred action for further consideration and left the record open for Roger Gross, Professional Engineer, to provide verification that the Sussex Conservation District did approve the project as built.

(See the minutes of the meeting of the Planning and Zoning Commission dated January 24, 2008 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

Mr. Lank explained that this is an application to consider deleting and/or modifying the conditions imposed in Ordinance No. 1455 (Conditional Use No. 1379) filed on behalf of Robino Sea Chase, LLC. Ordinance No. 1455 was adopted on May 8, 2001 with the following conditions:

- 1. The maximum number of residential units shall not exceed 45.**
- 2. The development shall be served as part of the Sussex County Sanitary Sewer System.**
- 3. The development shall be served by Tidewater Utilities, Inc. providing central water for consumption and fire protection per applicable regulations and approvals of DNREC, the State Fire Marshal, and the Public Service Commission.**
- 4. All entrance, intersection, and roadway improvements required by DelDOT, as set forth in DelDOT’s letter dated April 20, 2000, shall be completed by the applicant.**
- 5. Site plan of the development, including landscaping plans, shall be reviewed and approved by the Sussex County Planning and Zoning Commission.**
- 6. Applicant will construct the clubhouse and swimming pool by**

completion of 24 residential units.

7. The development will utilize a combined entrance to Sea Chase I and Sea Chase II for ingress and egress to County Road 274.

Public
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No. 1774)
(continued)

Mr. Lank distributed copies of an Exhibit Book; the Exhibit Book was submitted into the record.

Mr. Lank reported that correspondence was received on February 12, 2008 from Richard Diesinger and Larissa Gusakov. A copy of the correspondence was distributed to the Council.

Mr. Lank stated that he received a letter dated February 7, 2008 from the Sussex Conservation District and addressed to Roger Gross of Merestone Consultants making reference to The Estates at Seachase. The letter states that the District has signed off on the as-built surveys for the referenced project; that the ponds, as constructed, comply with the approved plan; and that the only remaining issues are to oversee the storm water facilities and correct areas of erosion.

Paul Robino was present with Mark Dunkle, Attorney.

Mr. Dunkle advised that there is a slight update to the Exhibit Book and he distributed copies of a revised as-built drawing. In addition, he distributed photos of the community and the community area.

Mr. Dunkle stated that Robino Seachase LLC is the original developer; that this application is a petition requesting an amendment to the Conditional Use approval that was granted on May 8, 2001; that there is a conflict between the Conditional Use approval and the conditions of approval – there is a conflict between those conditions and the final approved recorded plan: (1) there is no clubhouse/community building required on the Final Recorded Plan, (2) there are features of the Conditional Use approval that are on the Final Recorded Plan that the neighbors do not want and (3) representatives of the Condominium Council negotiated with the Applicant/Developer to not do those improvements; that there are 5 parking spaces that have not been built as required by the Final Site Plan (the area is currently landscaped); that the community does not want the 5 parking spaces built nor do they want the entrances combined; that Condition No. 6 requires a clubhouse and swimming pool to be built after the completion of 24 units; that the Preliminary Site Plan approved in July 2001 does not have a clubhouse; that the official, approved Preliminary Site Plan has a community building, a swimming pool, parking spaces and requirement to combine the entrances; that the official approved Preliminary Site Plan does not match the Conditional Use approval; that in August 2002, the Final Site Plan was approved by the County – it had the five parking spaces, the requirement to combine the entrances, but it did not have a community building/clubhouse; that they are requesting an amendment to cover these two issues; that the developer does not want to build a community building or a clubhouse; that their interpretation is that

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(continued)

the 5 parking spaces and the combined entrance are legally required and the community building or a clubhouse is not legally required; that currently, there are propane tanks and lines where the community building is supposed be built; that the pool is 3 times larger than proposed; that DelDOT has agreed to not require the combined entrances; that there is no consensus from the community on what they want to do; that they do not agree that they are obligated to construct any building; and that the Conditional Use approval should be amended one way or another.

Mr. Dunkle asked that they be given the opportunity to meet with the Condominium Council to find out exactly what they want, setting aside what is legally required, and to try and reach a consensus.

In response to questions raised by Mr. Dukes, Mr. Lank stated that the Final Site Plan shows the swimming pool and the five parking spaces; however, it omitted the community building.

Mr. Dunkle referenced Condition No. 5 and he stated that he cannot reconcile Condition No. 5 and Condition No. 6.

Mr. Griffin noted that, if the Developer and the Condominium Council can reach an agreement, a request could be made for an indication that their decision represents a majority position.

Public comments were heard.

Betty Misichronis, President of the Condominium Council and resident of The Estates of Sea Chase, stated that discussing the matter with the Applicant's Attorney will not work because they would have to get all 45 homeowners together and that would be impossible since some homeowners are not year-round residents; that according to the "documents", 65% of the property owners must meet; that she is unsure if the Council can make decisions on issues over \$5,000.00; and that this is still an unfinished development.

Mr. Griffin suggested that the Homeowners Association should involve their Attorney in the meeting with the Developer.

Rich Owens, a resident of The Estates of Sea Chase, stated that the homeowners question if this is an Association issue or an individual/buyer issue and that he purchased into the Development for a price and he didn't get what was promised.

Richard Diesinger, a resident of The Estates of Sea Chase, spoke in opposition to the Applicant's request. He reviewed the original site plan and he stated that it matches identically with the site plan dated 2001, which was approved by Sussex County Council and which is the site plan shown to him when he purchased into the project; that his complaint is that he wants the Applicant to honor the approved plan and finish the development

accordingly; that everything has been eliminated – all the trees, seven (7) stormwater retention ponds, the clubhouse, five (5) parking spaces; and that he is concerned about stormwater management and flooding and that a qualified study should be performed on the adequacy of the stormwater management system.

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(continued)**

Mr. Diesinger submitted a letter and attachments which show his objections to the proposal. He stated that the attachments include a sales advertising document on the project and a copy of the Code of Regulations for The Estates of Sea Chase Condominium.

Robert Dellinoce, a resident of The Estates of Sea Chase, stated that there is an ethical dilemma because the residents purchased into the project based on what was approved; that this extends into an economic impact; that he is willing to work with the Board and his neighbors; that he is willing to make concessions; that there should not be a conflict; that what was approved was reflected in the Applicant's advertising and there was false advertising; that he is willing to work with his neighbors and to make concessions; that this should not just be excused; and that it is a question of responsibility and he asked the Council to consider this fact.

Judy Pollock, a resident of The Estates of Sea Chase, stated that it would be hard for a majority of the property owners to attend a meeting; however, she stated that she is in favor of holding a meeting and she asked that the property owners be given timely notification of the meeting.

There were no additional comments and the Public Hearing was closed.

**M 139 08
Defer
Action
on C/U
No. 1774**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to defer action and to leave the record open on Conditional Use No. 1774, filed on behalf of Robino Sea Chase, LLC.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1777)**

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 A MEDICAL CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 23.471 ACRES, MORE OR LESS" (Conditional Use No. 1777) filed on behalf of Beebe Medical Center, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on January 24, 2008, at which time the Commission deferred action for further consideration and left the record open for a copy of the

Applicant's response to the PLUS comments and for a copy of the PLUS response to the Applicant's response.

**Public
Hearing
(C/U
No. 1777)
(continued)**

(See the minutes of the meeting of the Planning and Zoning Commission dated January 24, 2008 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the Council's record.

Donna Streletzky, Vice President of Operations for Beebe Medical Center, was present on behalf of the application. Ms. Streletzky stated that they are proposing an Outpatient Center to be called the South Coastal Health Campus; that they propose that the facility will be large enough to serve the southern portion of their service area (Eastern Sussex County); that they plan to consolidate their existing services; that the plan will allow for future growth; that they propose a 2-story facility with infrastructure to support adding a third floor in the future; that the new facility will provide a summer-only emergency department; that they propose an off-season walk-in primary care center; that the new facility will be capable of providing out-patient services, imaging facilities and services, laboratory services, rehabilitation services including physical, occupational, speech and aquatic; and CAT Scan and MRI services; that they are propose a green facility – an environmentally friendly facility; and that they are still working on the PLUS response.

Public comments were heard.

Mark Theriault, an adjoining property owner, stated that he is opposed to the helicopter pad as it appears on the Plan; that he would like to see it moved to the other side of the property near the State's land; that he is concerned about the proposed entrance, which is close to his property line; and that the turn and slow down lane will be in front of his house.

Mr. Lank advised that the Applicant would be required to go through another Public Hearing process to receive approval for a helicopter pad.

Dorothy Theriault Somerville, an adjoining property owner, stated that she is concerned about traffic; that the road is congested and unsafe now; that she questions how emergency vehicles will get through; and that she is concerned about the project's impacts on her property; and that she questions if there will be a sediment pond.

Lois Dolby, a resident of Homestead Acres Way, stated that she supports Beebe's efforts; however, she stated that the proposed location is the wrong location and she expressed concern about traffic and drainage.

There were no additional public comments and the Public Hearing was closed.

M 140 08 Defer Action on C/U No. 1777	A Motion was made by Mr. Dukes, seconded by Mr. Cole, to defer action on Conditional Use No. 1777 filed on behalf of Beebe Medical Center, Inc.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 141 08 Recess Regular Session/ Go Into Executive Session	At 9:47 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess the Regular Session and go into Executive Session to discuss personnel issues.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Executive Session	At 9:48 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing personnel issues. The Executive Session concluded at 9:53 p.m.
M 142 08 Out of Executive Session/ Reconvene Regular Session	At 9:54 p.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to come out of Executive Session and to reconvene the Regular Session.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 143 08 Adjourn	A Motion was made by Mr. Cole, seconded by Mr. Dukes, to adjourn at 9:54 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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