



## *Sussex County Council Agendas & Minutes*

### **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 13, 2007**

#### **Call to Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 13, 2007 at 5:35 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Dale R. Dukes</b>	<b>President</b>
<b>Finley B. Jones, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Member</b>
<b>Vance Phillips</b>	<b>Member</b>
<b>Lynn J. Rogers</b>	<b>Member</b>
<b>David Baker</b>	<b>County Administrator</b>
<b>Susan M. Webb</b>	<b>Finance Director</b>
<b>James D. Griffin</b>	<b>County Attorney</b>

#### **M 114 07 Approve Agenda**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to approve the Agenda, as distributed.

**Motion Adopted: 4 Yea, 1 Absent.**

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

#### **M 115 07 Approve Minutes**

At 5:38 p.m., a Motion was made by Mr. Jones, seconded by Mr. Cole, to recess the Regular Session and go into Executive Session for the purpose of discussing land acquisition.

**Motion Adopted: 4 Yea, 1 Absent.**

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

#### **Executive**

At 5:39 p.m., an Executive Session of the Sussex County Council was held in

<b>Session</b>	<b>the Caucus Room of the Sussex County Council Chambers for the purpose of discussing land acquisition. The Executive Session concluded at 6:09 p.m.</b>
<b>M 116 07 Reconvene Regular Session</b>	<b>At 6:10 p.m., a Motion was made by Mr. Jones, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.</b>  <b>Motion Adopted: 5 Yea.</b>
<b>M 116 07 (continued)</b>	<b>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</b>
<b>M 117 07 Recess</b>	<b>At 6:11 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess until 6:30 p.m.</b>  <b>Motion Adopted: 5 Yea.</b>  <b>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</b>
<b>Reconvene</b>	<b>At 6:37 p.m., Mr. Dukes called the Council back into Regular Session.</b>
<b>M 118 07 Approve Minutes</b>	<b>A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of January 30, 2007.</b>  <b>Motion Adopted: 5 Yea.</b>  <b>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</b>
<b>Corre- spondence</b>	<b>Mr. Griffin read the following correspondence:</b>  <b>MARIA KRINKEL, LEWES, DELAWARE.</b> <b>RE: Letter expressing appreciation for the assistance of Robert Eldreth, a Sussex County employee.</b>  <b>JUDITH A. SCIPLE, ASSISTANT TO THE CAMPUS DIRECTOR, DELAWARE TECHNICAL &amp; COMMUNITY COLLEGE, GEORGETOWN, DELAWARE.</b> <b>RE: Letter in appreciation of the Council's sponsorship of the Spring Gala, a fundraiser for scholarship funding.</b>
<b>Sports at The</b>	<b>Mr. Griffin announced that the Council was not in a position to take any action on the Sports at The Beach Proposal, for the following reasons:</b>

**Beach  
Proposal**

- The matter came up very quickly and involves a substantial amount of money.
- The proposal has changed from what was first proposed (on February 6th) as a loan by the County to a request that the County consider buying the property.
- Since it involves the potential use of public funds, the Council feels it should not act until it has a fair market value appraisal in hand; until that occurs, the Council is not in a position to consider committing substantial public funds to this project.

(continued) Mr. Griffin stated that, when all needed information has been received and the Council has had an opportunity to fully review it, the matter would be placed on the Agenda for a future meeting. He noted that agendas are posted seven days prior to a meeting being held.

**Recess** At 6:41 p.m., President Dukes declared a 2-minute recess.

**Reconvene** At 6:43 p.m., Mr. Dukes called the Council back into session.

**Adminis-  
trator's  
Report** Mr. Baker read the following information in his Administrator's Report:

1. **Beneficial Acceptance**

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

- Sandy Cove Townhouse Community, Agreement No. 451, was granted Beneficial Acceptance on February 6, 2007. The developer is Clinton Bunting, Clinton Properties, LLC, and the project is located on the south side of Road 358, east of White Creek, and 0.7 mile west of Road 357 in the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District, consisting of 84 townhouse units with a clubhouse.
- Hawkseye Subdivision (off-site sewer only), Agreement No. 391-0, was granted Beneficial Acceptance on February 7, 2007. The developer is Paul Townsend, L.T. Associates, L.L.C., and the project is located on Gills Neck Road in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of off-site construction.
- Fenwick Shoals – Phases II and III, Agreement No. 362, was granted Beneficial Acceptance on February 9, 2007. The developer is Bryan Keith, Keith Properties, and the project is located on Route 54, east of Fenwick Farms in the Fenwick Island Sanitary Sewer District, consisting of 20 single-family lots.

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

2. Charles F. Stuchlik III

We regret to announce that Mr. Charles F. Stuchlik III passed away on January 27, 2007. Mr. Stuchlik served on the Sussex County Council Board of Adjustment for 23 years. A service will be held at noon on March 3, 2007, at Goshen Hall in Milton in memory of Mr. Stuchlik.

Adminis-  
trator's  
Report  
(continued)

3. Presidents' Day Holiday – February 19, 2007

County offices will be closed on Monday, February 19, 2007, for Presidents' Day. Also, there will not be a County Council meeting on February 20, 2007, in honor of this holiday. The next County Council meeting will be on February 27, 2007, at 10:00 a.m.

Pension  
Committee/  
Consultant  
Selection

Susan Webb, Finance Director, reported that on February 5, 2007, the Pension Committee met and reviewed a proposal from Peirce Park Group, Investment Management Consultants. Mrs. Webb stated that the purpose of considering Investment Management Consultants for the County is to formalize the County's Investment Policy for the Pension Fund and to ensure the ongoing health of the County's Pension and Retirement Benefit Fund. The Pension Committee voted unanimously to recommend to the Council that the County enter into a contract with Peirce Park.

Mrs. Webb explained that the Consultant Group would review the County's investment policy and the existing asset mix; determine the appropriate asset mix; review each investment manager for performance, risk and cost; and make suggestions and recommendations.

Mrs. Webb advised that the Consulting Contract would be for a period of one year and that the initial contract would cost \$25,000.00.

Mrs. Webb stated that the County Council and the Budget Committee has done an excellent job in their goal of fully funding the Pension Fund as well as being on the aggressive side of beginning to fund the Post-Retirement Employee Benefit Fund; these two funds currently total \$50 million. She noted that this is a large asset to manage.

M 119 07  
Contract  
with  
Peirce  
Park  
Group

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council authorizes the Finance Director to enter into a one-year contract with Peirce Park Group at a cost of up to \$25,000.00 for pension consulting services.

Motion Adopted: 5 Yea.

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

**Tingle  
Road  
Pumping  
Station  
Improve-  
ments**

Russell Archut, Assistant County Engineer, presented a Contract with Whitman, Requardt & Associates (WR&A) to provide contract administration and onsite observations for Sussex County Project No. 06-05, Tingle Road Pumping Station Improvements, which was awarded to Zober Contracting Services on February 6, 2007. Mr. Archut advised that the cost of the contract with WR&A would be \$49,967.00 and that it would be based on time and material.

**M 120 07  
Execute  
Contract  
Amend-  
ment/  
WR&A/  
Tingle  
Road  
Pumping  
Station  
Improve-  
ments**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the County Engineering Department, that the Sussex County Council authorizes the Sussex County Council President to execute Amendment No. 43, dated January 9, 2007, to its Contract with Whitman, Requardt & Associates, LLP, for construction administration and onsite observations for the Tingle Road Pumping Station Improvements, at a cost not to exceed \$49,967.00.

**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 121 07  
Community  
Improve-  
ment  
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$5,000.00 from Mr. Cole's Community Improvement Grant Account to West Side New Beginnings, Inc. for their summer youth program.

**Motion Adopted:** 5 Yea.

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

**M 122 07  
Council-  
manic  
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$600.00 from Mr. Jones' Councilmanic Grant Account to Kent-Sussex Industries, Inc. for their golf tournament fundraiser.

**Motion Adopted:** 5 Yea.

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

**M 123 07  
Council-**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$50.00

**manic Grant**                      **from Mr. Jones' Councilmanic Grant Account to the Bridgeville Lions Club for their Annual Variety Show fundraiser.**

**Motion Adopted:        5 Yea.**

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

**M 124 07  
Grant**

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

**M 124 07  
Council-  
manic  
Grant  
(continued)**

**Motion Adopted:        5 Yea.**

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

**M 125 07  
Youth  
Activity  
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to the Delaware Game & Fish Commission for their Youth Conservation Camp.**

**Motion Adopted:        5 Yea.**

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

**M 126 07  
Recess**

**At 6:58 p.m., a Motion was made by Mr. Cole, seconded by Mr. Jones, to recess until 7:30 p.m.**

**Motion Adopted:        5 Yea.**

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

**Reconvene**

**At 7:30 p.m., Mr. Dukes called the Council back into Regular Session.**

**Public  
Hearing-  
C/Z #1615,  
C/Z #1616,  
C/Z #1617,  
C/Z #1618,  
C/U #1724,  
C/U #1725**

**A Public Hearing was held on the following Proposed Ordinances:**

**“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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 35.70 ACRES, MORE OR LESS” (Change of Zone No. 1615) filed on behalf of**

**North Milton Development Group II and 1630 Ventures, L.L.C.**

**“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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 56.48 ACRES, MORE OR LESS” (Change of Zone No. 1616) filed on behalf of North Milton Development Group II and 1630 Ventures, L.L.C.**

**Public  
Hearing-  
C/Z #1615,  
C/Z #1616,  
C/Z #1617,  
C/Z #1618,  
C/U #1724,  
C/U #1725  
(continued)**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 435.67 ACRES, MORE OR LESS” (Change of Zone No. 1617) filed on behalf of North Milton Development Group I and North Milton Development Group II.**

**“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 226.41 ACRES, MORE OR LESS” (Change of Zone No. 1618) filed on behalf of North Milton Development Group II and 1630 Ventures, L.L.C.**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SEWAGE TREATMENT PLANT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 74.61 ACRES, MORE OR LESS” (Conditional Use No. 1724) filed on behalf of North Milton Development Group II.**

**“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF SLUDGE, TREATED SLUDGE OR ANY MATERIAL CONTAINING THESE MATERIALS BY SPRAY IRRIGATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL AND CEDAR CREEK HUNDREDS, SUSSEX COUNTY, CONTAINING 1,739.779 ACRES, MORE OR LESS” (Conditional Use No. 1725) filed on behalf of Harry Isaacs, Jr.**

**(It was the consensus of the Council to consolidate the six (6) applications into a single Public Hearing with the understanding that each application would be acted on individually.)**

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on these applications on January 25, 2007 at which time action was deferred on all six applications. The record was left open on the Change of Zone applications for final comments from DelDOT on the Traffic Impact Study; and following receipt of the comments from DelDOT, the record will remain open for 15 days for written comments on the Traffic Impact Study comments only.

Public  
Hearing-  
C/Z #1615,  
C/Z #1616,  
C/Z #1617,  
C/Z #1618,  
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C/U #1725  
(continued)

See the minutes of the meeting of the Planning and Zoning Commission dated January 25, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.) Mr. Lank read a summary of the Commission's Public Hearing. The summary was admitted as part of the Council's record.

Mr. Lank reported that a letter was received by fax on this date, February 13, 2007, from DelDOT referencing the Traffic Impact Study. In his letter, T. William Brockenbrough, Jr., County Coordinator, states that the developer's traffic engineer, The Traffic Group, is preparing a Traffic Impact Study (TIS), which they expect to receive within the next few weeks. In the letter, DelDOT stated that they do not object to Sussex County approving the rezoning and conditional use applications with a stipulation. That stipulation is that this development may move forward through the County approval process to include but not exceed the number of dwelling units that would not require a TIS (214 dwelling units if all are single family detached houses, a somewhat higher number if other dwelling unit types are included). Additionally, the number of units permitted must include a proportional number of MPHUs. Upon completion of the TIS and County acceptance of the recommendations for traffic improvements, the developer may proceed with the remainder of the units including the remainder of the MPHUs.

Mr. Lank stated that he previously distributed an Exhibit Book to the Councilmembers, which was provided by the Applicants.

The Council found that John Paradee, Esquire, was present on behalf of the applications. He introduced the project team; summarized the history of the project, including the annexation proposal with the Town of Milton, which did not work out; and presented an exhibit which categorizes the different applications and the number of residential and commercial units proposed. Mr. Paradee stated that the project complies with the Comprehensive Plan, the Zoning Ordinance and the Subdivision Ordinance and that it is also consistent with Livable Delaware and the State Strategies Plan.

Mr. Paradee advised that they would be providing the Council with a copy of their power-point presentation, in booklet form and on CD.

The Commission found that Sean Davis of Morris & Ritchie Associates, Inc.



Public  
Hearing-  
C/Z #1615,  
C/Z #1616,  
C/Z #1617,  
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(continued)

(MRA) and Randall Arendt of Greener Prospects were present to discuss the proposed project. They stated that the project is a proposal to comprehensively plan the development of 2,500 acres at one time as one community as opposed to a piece-meal development. They stated that they established a series of goals and objectives: to provide a variety of residential home types that can provide for the diverse housing needs of the region, including single family detached, single family attached, and multi-family homes; to incorporate Moderately Priced Housing Units throughout the community and in every home type; to provide a variety of retail and employment opportunities within the community to serve the growing needs of the region; to incorporate a variety of recreational and open space amenities to serve not only the community but the surrounding neighbors; to provide the necessary infrastructure (sewer, water, roads, etc.) to serve the community and existing and future regional development; to protect and enhance the existing environmental features of the site including, but not limited to, woodlands, wetlands, floodplains, and sensitive soils; and to respect the neighbors and ensure that the proposed community will blend into existing and planned development patterns and the local vernacular of the area. They stated that the site is centrally located in the Milford, Georgetown, Lewes “Triad” with excellent accessibility to the regions’ roadway network and in close proximity to the beach, State Parks, and regional amenities; that the property consists of 20 separate legal parcels totaling over 2,500 acres; and that there are three distinct areas of the development: the Development Area, the Sewage Treatment Facility, and the Spray Irrigation Fields. They stated that the development portion of the project is located within a Development Area according to the Sussex County Comprehensive Plan Update of 2002; that the development portion of the project is located within a potential expansion area according to the Town of Milton’s Comprehensive Plan; that the development portion of the project is located within Level One, Level Two and a small portion of Level Three according to the State Strategies Plan. They stated that there is no proposed development in the Level 3 Area and it will be maintained as an environmental buffer. They stated that the site has views of existing agricultural uses to the north and west, views of forest and Wagamons Pond to the south, and transitional views along Route 16 through the property and to the east towards the Town of Milton; that a variety of commercial and business uses already exist in the area along Route 16; that the site has a flat topography with many high points and low points; that Route 16 acts as a ridge with the northern properties draining to Ingrams Branch and the southern properties draining to Pemberton Branch and Wagamons Pond; that there are limited non-tidal wetlands and flood plains; that there is limited forest cover along the northern and southern boundaries and hedgerows; that there are multiple access points along Route 30, Route 16 and Cedar Creek Road; that the project is in close proximity to the existing urban area of the Town of Milton to the east; that a historic cemetery exists to the south; and that they plan on constructing structures similar in architecture to the existing residential, civic and commercial structures in and around the Town of Milton. They stated that they plan to preserve existing natural features and use forest stands and hedgerows as “place-

Public  
Hearing-  
C/Z #1615,  
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C/Z #1617,  
C/Z #1618,  
C/U #1724,  
C/U #1725  
(continued)

makers”; to plan the “heart” of the community along Route 16; to focus commercial uses along Route 16 and Route 30; to transition residential from high density next to commercial to low density along the perimeter; to create numerous residential neighborhoods with similar home types in each; to provide a variety of recreational opportunities throughout the community; and to interconnect a variety of uses through roads and pedestrian pathways. They stated that the total area is 753 acres; that the total development area is 485 acres; that the remaining portions of the property are left in open space; that within the 485 acres, they are proposing 3,710 residential units of which 1,745 are proposed single family detached, 146 are proposed single family duplexes, 789 are proposed single family attached, 880 are proposed multi-family units, and 150 multi-family units above retail; that the development area includes all residential, retail, mixed uses, and road rights-of-way, and alleys; that in order to service the 3,710 homes, they are proposing 413,000 square feet of retail space; and that, in total, there are 271 total acres of open space (approximately 35 percent of the site). They stated that affordable housing units will be mixed throughout the neighborhoods; that a community center, a YMCA facility, small and large parks, and pedestrian mobility features will be provided throughout the community; that parks will have access to streets, roads and trails; that each neighborhood would have a variety of open space parkland; that there are nine (9) different housing types within the proposed project; that the housing types include large single family homes/lots, medium single family homes/lots, small single family homes/lots, duplex homes, detached town homes, large town homes, small town homes, multi-family units, and multi-family units over retail spaces; that there are 1.4 miles of boulevard roads with multi-modal paths; that there are 2.6 miles of collector roads; that there are 14.5 miles of neighborhood roads; that there are 13.2 miles of neighborhood lanes (alleys); and that the total miles of roads is 31.7, which will all be paid for and maintained by the Homeowners Association in perpetuity.

They stated that the 271 acres of open space (35 percent) is proposed, as follows: 120 acres of active open space, 151 acres of passive open space, 1.4 miles of 12 foot wide trails down the center of the boulevard, 7.2 miles of 8 foot wide trails that circumnavigate the community and 33.7 miles of 5 foot wide sidewalks on both sides of all the streets, and that along Cedar Creek Road and Route 30, 100-foot wide wooded buffers with bikeways are proposed; that there will be a minimum buffer of 100 feet in width from Ingrams Branch and Pemberton Branch; and that 7.0 miles of trails with a width of 12 feet is proposed throughout the project. In accordance with traditional town planning principles, the homes, for the most part, are proposed to be facing onto Route 30 and Cedar Creek.

They stated that the project will be phased with at least 10 phases over a 10 to 15 year span beginning in 2008; that the community recreation will be incorporated with every phase of the development; that moderately priced homes will be included in all home types, within all phases, and throughout the entire community; and that a total of 400 moderately priced homes will

ultimately be developed within the project.

Randall Arendt stated that, if the proposed number of units were developed in a standard, conventional way, it would consume about 3,500 acres; that the developed part of this property would be 750 acres, of which 270 acres would be open space. He stated that the proposed project is anti-sprawl.

Public  
Hearing-  
C/Z #1615,  
C/Z #1616,  
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(continued)

Todd Fritchman of Envirotech Environmental Consulting, Inc. stated that he has prepared a Comprehensive Open Space Management Plan that includes the conservation and/or enhancement of water quality, natural heritage, habitat, biological diversity, exotic invasive vegetation control, aesthetics, recreation and educational outreach and environmental interpretation; that the open space units stream flow would consist of (1) existing pond and proposed stormwater retention basins, (2) existing riparian buffers, associated wetlands and upland forests; (3) mixed use green space, and (4) Ingram Branch, Pemberton Branch (including Wagamons Pond); that water quality will be controlled with a comprehensive water quality management and implementation plan; that natural heritage will be maintained by extending habitat based on historic geological and biological research, existing vegetative conditions, and hydrology, providing educational outreach and environmental interpretation, and promoting stewardship; that habitat will be maintained by incorporating native beneficial vegetation into proposed landscape plans, conservation areas and stormwater management areas in order to establish the proper microclimate; that biological diversity will be maintained by the installation of native beneficial vegetation to eco-sensitive areas, by the creation of successional units in and around naturally occurring riparian buffers and stormwater management ponds, the installation of wildlife nesting sites, and wildlife management; that exotic invasive vegetation will be controlled by the use of Integrated Vegetation Best Management Practices to select against exotic invasive and/or native nuisance vegetation, and that native beneficial vegetation will be selected, which requires a license, herbicide application, pruning, clear cutting, and equipment; that aesthetics will be maintained by viable ecosystem(s) restoration; that recreation will be established by the creation of facilities in which active human recreation may take place in the form of wildlife photography, fishing, environmental interpretation, educational outreach programs, boating and nature trails; that educational outreach and environmental interpretation can be generated by natural heritage and environmental education outreach through inquiry based learning programs; that open space will be enhanced and will be maintained with active environmental management services; that open space will be broken down into individual management units, each with specific best management practices that are microclimate dependent; that the management units will include ponds, wetlands, stormwater management areas, riparian buffers and regeneration areas, ditches and streams, forested areas, and green spaces; that they propose to provide the Best Management Practices and the recommended natural resource management products required to promote soil stabilization, enhance water quality, control exotic invasive and

Public  
Hearing-  
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(continued)

nuisance flora and fauna, maintain a diversity of fish and wildlife habitats, and provide an interpretation of the ecosystem; that in the ponds, wetlands and stormwater management areas, monitoring and implementing Best Management Practices would be required to promote (1) pond embankment and soil stabilization, (2) nuisance aquatic and/or exotic aquatic invasive vegetation control, (3) algae and cyanobacterial control, (4) fish and wildlife management, (5) vegetative enhancements, (6) water quality and habitat enhancement, (7) removal of organic matter accumulation, (8) monitoring physical water quality parameters, (9) benthic macro-invertebrates analyses, (10) aeration (if required), (11) appropriate mosquito control, (12) proper selection of environmental management service products, and (13) propagation of pond riparian buffers; that they propose to provide and implement an integrated vegetation management program that will (1) increase biodiversity, (2) reduce negative environmental impacts from native nuisance and exotic invasive species, (3) improve water quality, and (4) enhance wildlife habitat; that they propose integrated vegetation management practices specific for the control of exotic invasive and/or native nuisance vegetation; that all indigenous beneficial grasses, shrubs, and trees will be left intact; that pruning to the beneficial vegetation will take place if necessary; that the indigenous beneficial vegetation is outlined in the Existing Conditions Report; that indigenous beneficial grasses, shrubs and trees that begin to re-colonize the areas void of vegetation, once occupied by invasive and nuisance species, will be selected for and allowed to re-colonize as beneficial pioneer species; that they propose to provide drainage outlets for excess water that exceeds the infiltration ability of the soils within a specific watershed to decrease the chances of flooding of property, roadways and dwellings, to decrease public safety issues, and to decrease negative economical impacts; that drainage of the community and soil stabilization will occur with (1) appropriate stormwater run-off retention and pre-discharge treatment, (2) vegetated slopes and channels void of woody stemmed trees and flow restrictions, (3) bank, channel and pipe inlet and outlet stabilization utilizing approved products, (4) installation of riparian corridors, (5) quarterly inspection of stream/ditch to identify any channel blockage, and (6) maintenance easements when necessary; that they propose to allow for the propagation of a climax community forest through a natural successional process that will (1) promote bio-diversity, (2) provide wildlife habitat, (3) provide educational outreach and environmental interpretation, (4) improve aesthetics, (5) improve water quality, and (6) promote soil stabilization; that forested areas will be protected by monitoring dead fall accumulation for fire mitigation and canopy elevation in designated areas only; that green spaces will provide urban dwellers with (1) areas for passive and active recreational activities, (2) educational outreach opportunities, (3) increased pervious surface for infiltration, and (4) enhanced aesthetics; and that maintenance and management practices in the green spaces include implementation of conventional Best Turf Management Practices as described by the Professional Landcare Network and implementation of best nutrient management practices for turf application.

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The Commission found that Bruce Kraeuter of Artesian Resources stated that they are dedicated to providing the highest quality service to the communities they serve; that they provide water and wastewater services throughout Delaware; that they currently serve a population of approximately 250,000; that they own and operate their wastewater facilities; that the water and wastewater services are regulated by the Delaware Public Service Commission; that, in the Elizabethtown project, they anticipate an estimated water demand of 1.2 million gallons per day; that they plan to secure that water through groundwater supplies located in the open space areas in the project; that hydrogeologic testing would be performed to determine safe yields; that an allocation permit would be issued by DNREC; that the wastewater treatment varies by water quality; that the water will be treated to State and EPA drinking water standards; that the treatment plant architecture will blend into the community; that water wells will be located in open space areas within the community; that it is anticipated that the treatment plant will be located near the wastewater treatment plant; that the water treatment plant will be constructed to appear to be a home or an agricultural building; that an elevated water storage tank will be located adjacent to the wastewater treatment plant site; that water capacity is anticipated to be 1.5 million gallons; and that the elevated storage tank will provide emergency storage of water, will provide flow for fire protection, and will maintain pressure in the system.

Brian Carbaugh, Artesian Resources, stated that the Elizabethtown wastewater project is proposed to serve Elizabethtown with the ability to provide additional regional wastewater infrastructure including the ability to serve adjacent municipal needs through a phased wastewater treatment plant development concept; that they have secured over 1,600 acres of land that is already in ag-land preservation, including cultivated and forested areas, for irrigation with treated wastewater in accordance with DNREC and Department of Agriculture requirements; that they have a requirement for biological treatment; that there would be clean water storage lagoons that would be used for seasonal application and for managing the water for irrigation needs; that the bermed lagoons would front on Route 30 with grassy knolls in front; that the treatment plant building will appear to be an agricultural building; that the proposed system provides an “unlimited public access” level of treatment; that the water will be treated to advanced levels of disinfection; that the treatment process includes biological oxidation, clarification, coagulation/flocculation, filtration and disinfection; that the water is brought up to the cleanest possible water quality; that the project is reviewed by the Department of Agriculture and DNREC; that the spray irrigation to agricultural land recycles precious water and nutrient resources; that irrigation rates will be determined by crop utilization and uptake limits rather than wastewater disposal; and that DNREC Division of Water Resources has written that the Groundwater Discharges Section of DNREC feels that the spray irrigation project proposed for the project meets the current criteria of the Site Selection and Evaluation Report for land treatment systems.

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Carl Wilson of The Traffic Group, Inc. submitted a copy of the preliminary Traffic Impact Study and the letter of approval from DelDOT. Mr. Wilson stated that, in the Traffic Impact Study Process, the first step is to obtain a scope of work from DelDOT; that DelDOT has instructed them to study 15 off-site intersections, including major intersections located within 6 miles of the site and all site access intersections; that 7 background developments had to be considered; that the intersections included Route One and Cedar Creek Road, US Route 113 and Route 16, site entrances, Route One and Route 16, Route 16 and Route 30; Route 30 and Sand Hill Road; that traffic counts and distribution reports have been submitted; that they had to obtain AM, PM and Saturday counts; that they had to utilize seasonal adjustment factors; that they had to review project origins and destinations of site traffic; that they had to add regional growth rates; that the preliminary Traffic Impact Study has been approved by DelDOT; and that they are in the process of preparing the final Traffic Impact Study and will be required to prepare an analysis using methodology and standards required by DelDOT and to make recommendations for improvements to provide acceptable operations at each of the intersections, both off-site and site access points, i.e. traffic signals, when warranted, and geometric improvements to provide an acceptable level of service or to completely mitigate site impact.

Mr. Wilson referred to DelDOT's letter, which was received by the County on this date and read into the record by Mr. Lank, Director of Planning and Zoning. Mr. Wilson referenced the comment in the letter that "this development may move forward through the County approval process to include but not exceed the number of dwelling units that would not require a TIS (214 units)."

Joe Cronyn of Lipman Frizzell & Mitchell, LLC (Real Estate Appraisers and Consultants) stated that his firm was retained to perform a Residential Market Feasibility Analysis of the proposed development. The study found that Sussex County Demographics show a strong population and household growth rates nearly double those in the State; that the County shows an annual population growth rate of 3.4%, while the State shows an annual population growth rate of 1.9%; that the County shows an annual household growth rate of 3.6%, while the State shows an annual household growth rate of 2.0%; that residential market trends indicate that there were 3,882 multiple list sales in 2006, an average of 80 days on the market; that the median home price in the County was \$246,000 and \$256,500 in the Town of Milton; that data on new home sales in the County showed, that as of November 2006, 2,509 single family detached homes were sold, 2,062 single family attached homes were sold, and 847 multi-family homes were sold; that it is estimated that there are 7,000 to 8,000 units in various stages of predevelopment in this portion of the County; that in terms of currently selling communities, approximately 59 communities have single-family homes, approximately 36 communities have town homes; and approximately 12 communities have multi-family homes – almost 17,000 units are planned in these communities; that 5,400 units have been sold

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already out of the 17,000 units; that there is a significant remaining inventory – almost 7,000 single-family detached homes, almost 1,800 single-family town homes, and almost 3,000 multi-family units; that, in terms of new home demand and the growth path of the County, there is demand on an annual basis for 1,200 to 1,260 single-family homes, 960 to 1,020 single-family detached homes; 300 to 360 multi-family town homes – a total of 2,460 to 2,640 homes annually on average for the unforeseeable future; that the project has the potential to create its own “destination” residential community due to its size, scale and potential amenity packages; that the majority of the buyers will be retirees or active adults nearing retirement; that they recommend that the marketing effort include a model home park and a first class sales approach by at least four national builders; that they believe that the amenities planned within the community should be delivered early in the sales process and continue to come on line parallel with the residential development; that by offering competitive market pricing and an amenity package, the project could be expected to sell at an overall monthly pace of 20 units per month; and that they estimate that the project will have an absorption period of approximately 15 years.

Molly McKay of Economics Research Associates reviewed their preliminary findings with the fiscal and economic benefits associated with the project. She stated that they are continuing to collect data and assumptions as the project continues; that the project is expected to generate significant one-time and annual on-going fiscal and economic benefits; that, at build-out, they expect the construction-related investment to equate to approximately \$860 million; that total annual construction jobs are estimated at 958 full-time employees; that one time realty transfer taxes are estimated at \$27.2 million (spread out over a 10-15 year build-out); that, in terms of annual ongoing benefits at build-out (Year 10), real property taxes are valued at \$4.4 million and realty transfer taxes are valued at \$2.7 million; that the project is expected to generate significant on-site economic benefits in the form of onsite direct jobs; that the commercial program is expected to support 750 full time retail jobs and 411 full time office jobs; that they feel the on-site fiscal benefit on real property taxes will exceed \$1.0 million; that, in regards to public school implications, based on a range of student generation factors, between 0 students for the age-restricted units to 0.43 per household could be generated by this project; that these assumptions were derived from a school generation report and analysis that was conducted by Dr. Brandenberger; that, if this development has a higher proportion of active adult families without children, then there would be a lower student generation yield; and that it is estimated that 8,455 residents will live in 3,710 residential units.

Ms. McCay stated that the project does present public safety benefits: (1) the contribution of land and construction investment for a dedicated public safety building; (2) the project will maintain a dedicated 24-hour private security force, (3) residents are expected to contribute approximately \$100 per household annually to support the Volunteer Fire Department (\$370,000 value); and (4) the State of Delaware is expected to continue to

provide public safety to Sussex County's emergency preparedness fund via intergovernmental transfers.

In conclusion, Mr. Paradee stated that the project (1) complies with Sussex County's Comprehensive Plan; (2) complies with all County Code requirements; (3) is supported by the Office of State Planning Coordination (OSPC); (4) satisfactorily addresses all PLUS comments; (5) provides net positive benefits to the town of Milton; and (6) is a model community as envisioned by Livable Delaware. He stated that the project provides much needed infrastructure; that they plan on respecting the existing heritage of the project; and that the project would bring people, businesses and services to the area that would revitalize the area, the community, and the Town of Milton.

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Mr. Paradee advised that proposed findings of facts and proposed conditions were submitted and are included in the project notebook.

Mr. Arendt emphasized that the project is the epitome of Livable Delaware.

In response to questions raised by the Council, members of the Project Team responded that the 700 acres to be used for spray irrigation is already in ag-land preservation; that they have looked at the use of the already preserved ag-land preservation lands as an enhancement of that preservation; that it provides additional use and additional income to the ag-land preservation land; and that it puts further use and perpetual restrictions on it for wastewater management; that it is their proposal that each household would give \$100.00 to the fire department each year; that the school analysis information is based on statistical study by Dr. Brandenberger; that they did not look at the cumulative effect of all the development in the area; that the school district did not express any serious concerns about the applicant's ability to handle the school impacts; that the retail is 413,000 square feet for 3,710 units; that the developer is committed to an on-going active management program; that they are committed to meeting or exceeding Chapter 40 Title 7 of the Delaware Code relative to erosion and sediment control and stormwater management; that they meet or exceed all PLUS comments; that they will fully comply to the Conservation District and the DNREC Division of Water Resources; and that they meet or exceed all the policies outlined in the Delaware Coastal Management Program; that the Traffic Impact Study will be distributed to the Council upon receipt; that the development will have to comply with State Fire Marshal requirements; that 35 percent open space is planned in the developed area; that they propose 40 homes per phase; that they propose a separate Homeowners Association for each neighborhood that will be governed by a Master Homeowners Association for the entire development; that they propose to self-record Restrictive Covenants on the change of zone applications; that they are still uncertain about the placement of the water plant and that it is a site plan issue; that they propose a surplus of wastewater capacity and that the owner wishes to maintain a wastewater capacity to serve the Town of Milton should the



Town ever need it; that the wastewater system would be developed regionally with a minimum capacity of 3 to 6 million gallons (10,000 – 20,000 EDUs); that the capacity can be offered wherever it is needed; that the Council has the ability through the MPHU Ordinance to entertain any variances that may be necessary to eliminate the need to go before the Board of Adjustment; that they did not ask for nor do they anticipate any funding from the State; and that the infrastructure funding would be developer-provided.

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Mr. Griffin stated that although the MPHU Ordinance does give some flexibility, the applicant may still have to make application to the Board of Adjustment for lot size variances. The applicant responded that they are willing to pursue those, if necessary.

Mr. Griffin advised that anything that is proposed to be recorded by the Applicant, such as Restrictive Covenants, would need to be in place, possibly before the Council votes.

Public comments were heard in support of the applications.

Harry Isaacs (one of the applicants) stated that the proposed development is next to a town, where development should be and that he has agreed to permit spray irrigation on his land and that he still plans to farm the land.

Mr. Isaacs asked that the Council consider funding a memorial to Jack Allen to be placed in the Sussex County Council Chambers. (Mr. Allen served on the Planning and Zoning Commission for over thirty years.)

James Welu, an adjacent property owner stated that there should be something that carries forward with the zoning approvals so that things that need to be done will be done no matter who owns the property, i.e. stormwater, wastewater, etc. and he suggested recording easements and/or conditions; that he supports the commercial buildings fronting on Route 16; that he questions how access to the commercial sites would work; that he is concerned about traffic on Route 16; that he hopes DelDOT and the developer make provisions for the widening of Route 16; that he would like for the developers to meet with residents in the area so that they might be aware of what is planned and so that they would have input into some of the design techniques of each community; and that the developer is proposing a site for the YMCA and that he hopes it would be located in an area where it could serve the community of Elizabethtown and the Town of Milton.

Marion Jones stated that the development is proposed in the middle of pristine farmland and that she hopes the Council will consider looking at this project on its own merits and not sentence the applicant to return to the Town of Milton to negotiate again. She stated that the Council will hear that this project would rob the Town of Milton of its identity; however, she disagrees.

D. J. Hugtes stated that he generally supports the concept of this development; that the commercial services will be needed as the area continues to grow; that he would like to see the commercial built out as it is needed, and not all at one time; that he is concerned there would be big box retailers; and that he would like to see an increase in the number of moderately priced housing units.

Jeff Joseph stated that growth is coming and that he prefers controlled growth.

Dan Kramer complimented the proposed project and stated that the density should be greater.

Public comments were heard in opposition to the project.

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Josiah Wolcott, Attorney representing the Town of Milton, referenced statements that had been made during the Applicant's presentation that Artesian would be providing wastewater service to the proposed project. He specifically commented on the Town's opposition to Conditional Use No. 1724, an application for a sewage treatment plant. Mr. Wolcott distributed a packet of information containing the Town of Milton's statement of reasons in opposition to the application to the Public Service Commission by Artesian Wastewater Management Inc. for a Certificate of Public Convenience and Necessity for the Elizabethtown Project. He stated that Artesian's applications for the Elizabethtown project should be dismissed because (1) the areas into which Artesian has applied to extend its wastewater services are located within the Town's existing wastewater service territory, as described in 26 Del.C. § 203D(b) and (2) Artesian failed to obtain or submit documentation of the Town's consent to allow Artesian to expand its wastewater service into that territory, as required by 26 Del.C. § 203D(b). Mr. Wolcott stated that the proposed site for the treatment plant is within the wastewater service territory of the Town of Milton.

Mr. Wolcott referenced comments made by the applicant that the plan satisfactorily addresses each of the Plus Review comments submitted. He read into the record, the Public Service Commission's PLUS comments which included the following: "If a private utility were to apply for a CPCN to provide water services, the Town could object the CPCN being granted..."

In response to questions raised by Mr. Griffin, Mr. Wolcott stated that no hearing date has been set by the Public Service Commission.

Mr. Wolcott advised that the Town Council of Milton has voted on and approved privatizing the wastewater utility service within the Town's existing wastewater service territory and they have already engaged in contract negotiations with Tidewater Utilities.

Donna Gordon, an area resident, stated that she attended meetings that the Town of Milton held in regards to this proposed project and that she

perceived the overriding concern to be fear that they could not handle a project of this size and scope. She expressed concern that there would be 8,500 – 9,500 people in the new development, with basically no government; that if the development fails, the County would have to provide the necessary services; that a development this size should be a city with a government; that the current residents of the County are going to have to have their taxes raised to subsidize all of the new incoming people; that traffic is a real concern; that the retail space proposed will be a destination for people to go to; that there will be added costs for schools, roads, and police and fire services; and that sooner or later, infrastructure costs will cause taxes to go up.

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Keith Gordon, a resident of Milton, stated that the applicant is proposing to put 10,000 people in a field on Route 16 and that there will be an impact and there will be no views.

Bryan Dolan, a resident of Milton, stated that given the magnitude of this project, which is 4 1/2 to 5 times the size of Milton, that the Council cannot adequately assess the costs of the project to make an informed decision; that if the Council uses the process it traditionally uses, the “decision would be inherently arbitrary and capricious”; that the Council needs to commission a study to examine the true costs of the project. Mr. Dolan stated that the project is out of character with the Town of Milton; that the PLUS comments stated that “the developer should consult with the Town of Milton”; and that, if the Council allows this type of project, they will be allowing sprawl, which would totally change the character of these neighborhoods (the “Triad” area – Milford, Lewes and Georgetown); that it would create an isolated neighborhood with no integration of the Town, and that there will be increased traffic problems.

Charles Jones, a resident of Milton, stated that the commercial portion of the project would kill the downtown Milton area; that it would turn a small town way of life into a sprawled-out suburbia; that taxes will have to go up, whether it would be Federal, State or County; and that the project would attract retirees, who require more services.

Brenda Sims expressed concern that the small surrounding roads cannot handle additional traffic and that she would like to have more facts about the hazards of spray irrigation, especially since the residents in the area all have wells.

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

M 127 07  
Close  
Public  
Hearing &  
Defer  
Action on

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to close the Public Hearing and to defer action on the following six applications: Change of Zone No. 1615 filed on behalf of North Milton Development II, Change of Zone No. 1616 filed on behalf of North Milton Development, II and 1630 Ventures, L.L.C., Change of Zone No. 1617 filed on behalf of

**C/Z #1615, North Milton Development Group I and North Milton Development Group  
C/Z #1616, II, Change of Zone NO. 1618 filed on behalf of North Milton Development  
C/Z #1617, Group II and 1630 Ventures, L.L.C., Conditional Use No. 1724 filed on  
C/Z #1618, behalf of North Milton Development Group II, and Conditional Use No.  
C/U #1724, 1725 filed on behalf of Harry Isaacs, Jr., and further; to leave the record  
C/U #1725 open for written comments and for the submission of the Traffic Impact  
Study by DelDOT.**

**Motion Adopted: 5 Yea.**

**(continued)**

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

**M 128 07  
Adjourn**

**A Motion was made by Mr. Phillips, seconded by Mr. Jones, to adjourn at  
11:11 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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