



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 26, 2008

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 26, 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 144 08 Amend and Approve Agenda

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the Agenda by deleting "Angola Sanitary Sewer District, Temporary Wastewater Treatment and Disposal, Bid Award" 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 145 08 Approve Minutes

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to approve the minutes of January 15, 2008.

Motion Adopted: 5 Yeas.

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

M 146 08 Approve Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of January 22, 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
Corre-
spondence
(continued)**

Mr. Griffin read the following correspondence:
**THE WILMINGTON MUSIC SCHOOL (AKA DELAWARE MUSIC
SCHOOL), WILMINGTON, DELAWARE.**
RE: Letter in appreciation of Council's donation.

**M 147 08
Adopt
Procla-
mation**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the
Proclamation entitled "PROCLAIMING THE MONTH OF MARCH AS
"WOMEN'S HISTORY MONTH" AND MARCH 5, 2008 AS "AUDREY
DOBERSTEIN AND REBA ROSS-HOLLINGSWORTH DAY"**

Motion Adopted: 5 Yeas.

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

**M 148 08
Adopt
Procla-
mation**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the
Proclamation entitled "A PROCLAMATION TO HONOR CARLTON B.
"SPUCK" BENNETT".**

Motion Adopted: 5 Yeas.

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

**M 149 08
Appoint-
ment to
Board of
Assessment
Review**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to appoint
Ann Hudson of Milton, Delaware, to the Board of Assessment Review for a
term of three years (replacing Nancy Webb who resigned in January 2008).**

Motion Adopted: 5 Yeas.

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

**Land
Use Plan
Schedule
Update**

Mr. Baker presented an update on the Land Use Plan Schedule:

- **On February 29th, the County will make a presentation to the Livable Delaware Committee, presenting the County's response to the State's PLUS comments. The meeting will take place in the Tatnall Building in Dover at 1:00 p.m.**
- **On March 18th, the Sussex County Planning and Zoning Commission and the Sussex County Council will hold a Workshop to discuss a summary of the Draft Land Use Plan. The meeting will take place at the**

(continued)

Adminis-
trator's
Report

County's West Complex at 6:00 p.m.

- On April 3rd, the Sussex County Planning and Zoning Commission will hold a Public Hearing on the 2007 Land Use Plan Update. The meeting will take place at the CHEER Center in Georgetown at 6:00 p.m.
- On April 22nd, the Sussex County Council will hold a Public Hearing on the 2007 Land Use Plan Update. The meeting will take place at the CHEER Community Center in Georgetown at 6:00 p.m.

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

1. **NATIONAL ASSOCIATION OF COUNTIES CONFERENCE**

The National Association of Counties Legislative Conference will be held in Washington from March 1 – 5, 2008. This annual conference is a good opportunity for updates on issues that affect counties. Because of the timing of this conference, there will not be a regular County Council meeting on March 4, 2008. The next County Council meeting will be on March 11, 2008 beginning at 6:30 p.m.

2. **PRESCRIPTION DRUG DISCOUNT CARD PROGRAM REPORT**

Per a report from the National Association of Counties, 360 prescriptions were filled using the Prescription Drug Card during January 2008 in Sussex County. Two-hundred and twelve people actually filled prescriptions in this program. This number has grown from 107 users of the program during November, the first full month.

3. **BENEFICIAL ACCEPTANCE AGREEMENT - BAYSHORE PLAZA III - PENINSULA NURSING AND REHABILITATION CENTER**

The Engineering Department granted Beneficial Acceptance on January 22, 2008 to Jim Cerullo, Developer for the Bayshore Plaza III - Peninsula Nursing and Rehabilitation Center. The project is located on Route 24, 1/2 mile west of Long Neck Road, in the Long Neck Sanitary Sewer District; the project consists of two commercial units. Included with this report was a fact sheet on the project.

4. **SUSSEX COUNTY HISTORIC PRESERVATION PLANNER APPOINTMENT**

Sussex County Historic Preservation Planner, Daniel Parsons, has been appointed to the Lewes Scenic Byways Committee. Mr. Parsons received notification from the City of Lewes earlier this month. Mr. Parsons will be working with committee members, including local leaders and others with backgrounds in tourism and historic preservation, to develop a corridor in and around the City that will help tell the story of the community's history. According to

the Delaware Department of Transportation, three such Scenic Byways exist in the State – none are in Sussex County at this time. We look forward to Mr. Parsons' involvement in this cooperative project.

Local Law Enforcement Grant Request	Mr. Godwin presented the following request for funding through the Revenue Sharing for Local Law Enforcement Grant Program:			
	<table border="0"><tr><td style="padding-right: 20px;">Seaford</td><td style="padding-right: 20px;">\$ 2,591.00</td><td>Police vehicle equipment and markings</td></tr></table>	Seaford	\$ 2,591.00	Police vehicle equipment and markings
Seaford	\$ 2,591.00	Police vehicle equipment and markings		

M 150 08 Approve Local Law Enforcement Grant	A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the Revenue Sharing for Local Law Enforcement Grant in the amount of \$2,591.00 to the City of Seaford.
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Motion Adopted: 5 Yeas.

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

Wastewater Agreement	Mr. Godwin presented Wastewater Agreements for the Council's consideration.
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M 151 08 Authorize Wastewater Agreement/ Swan Cove	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. 626-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Mandrin Homes, for wastewater facilities to be constructed in Swann Cove – Manhole 114 to 115, located in the Fenwick Island Sanitary Sewer District.
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Motion Adopted: 5 Yeas.

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

M 152 08 Authorize Wastewater Agreement/ Fenwick Plaza	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. 322-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and West Fenwick Plaza, LLC., for wastewater facilities to constructed in Fenwick Plaza Parcel A2, located in the Fenwick Island Sanitary Sewer District.
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Motion Adopted: 5 Yeas.

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

**Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Paramedic Station
Paramedic Station No. 102 Lease Agreement (continued)** **Glenn Luedtke, Director of EMS, presented a renewal of a Lease Agreement between Sussex County and the Laurel Fire Company, Inc. for Paramedic Station No. 102. The Lease will commence on the 1st day of April 2008 and will continue for a period of one year; the monthly rental will be \$1,014.00 (a 3 percent increase over the previous year's rental amount). Mr. Luedtke noted that this will be the last year that the facility will be available for lease.**

**M 153 08
Approve Lease Agreement/ Paramedic Station 102** **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the Lease Agreement between the Laurel Fire Company, Inc. and Sussex County for the use of a portion of their building in the Town of Laurel, as described therein, by Sussex County EMS as Paramedic Station No. 102.**

Motion Adopted: 5 Yeas.

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

EMS/ Hospital Clinical Education Agreements **Glenn Luedtke presented two Affiliation Agreements, one with Nanticoke Memorial Hospital and one with Beebe Medical Center, for the purpose of providing clinical education to Sussex County paramedics. The Agreements are for a five-year renewal, commencing on April 1 2008 and ending on March 31, 2013. The Agreements were first established in 2002.**

**M 154 08
Approve Affiliation Agreements with Nanticoke and Beebe Hospitals** **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council approves the Affiliation Agreements with Nanticoke Memorial Hospital and Beebe Medical Center for the purpose of providing clinical education opportunities for Sussex County EMS Paramedics, as described therein.**

Motion Adopted: 5 Yeas.

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

Aircraft Main-tenance Proposed Lease/ Sussex Aero Main-tenance **Jim Hickin, Director of Airport and Industrial Park Operations, discussed a Lease Agreement with Georgetown Air Services (GAS), whereby GAS operates their maintenance business within Lot C-8 at the Airport. He noted that this is an 18-year old lease, which originally started with Sussex Aero Maintenance, Inc.; in 2002, it was assigned to Georgetown Air Services.**

Mr. Hickin reported that GAS was approached by Jeff Reed to purchase the maintenance assets of the business and continue operating the business

Inc. as Sussex Aero Maintenance Inc. Mr. Reed has submitted an application to operate a business at the Airport. Mr. Hickin stated that, following a review of the application, he recommends that it be approved.

Aircraft Main-tenance Proposed Lease/ Sussex Aero Main-tenance Inc. (continued) Mr. Hickin advised that the Original Lease does allow an Assignment of the Lease and he presented a Lease Amendment for the Council's consideration. He proposed the addition of a third year renewal term (2020-2030) making it a 40-year lease. He noted that there is no option in the existing lease for the County to deny an extension. Mr. Hickin proposed that the size of the lot be reduced to 39,172 square feet; that the current annual rent be changed from \$7,500 to \$6,744 until November 30, 2010; that the second renewal rent would change from \$10,500 to \$9,442 annually until November 30, 2020; and that the third renewal rent would be \$9,914 beginning December 1, 2020; that beginning December 1, 2021, there would be a CPI-U increase annually but no more than 3 percent annually. Mr. Hickin reviewed the employment and insurance requirements that would be a part of the Lease Amendment

M 155 08 Authorize Assignment of Lease Agreement to Sussex Aero Main-tenance, Inc. A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council authorizes the Assignment of the Commercial Lease Agreement for Lot C-8 with Georgetown Air Services, LLC to Sussex Aero Maintenance, Inc.; such Assignment to include an amendment of the Lease under the terms presented by Jim Hickin, Director, Sussex County Airport and Industrial Park.

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 stated that, on February 12th, the Council discussed the Source Water Protection Ordinance and reviewed proposed amendments which were discussed at the February 5th Council meeting. A copy of the draft Ordinance, including the proposed amendments, was distributed to the Council. On February 12th, Mr. Baker reported that the Source Water Protection Citizen and Technical Advisory Committee would be meeting to consider the proposed amendments and any other amendments to the draft Ordinance. Also on February 12th, Mr. Baker stated that, with the Council's approval, the original Proposed Ordinance (Public Hearing held on December 18, 2007) and the new draft ordinance would be placed on the February 26th Agenda for consideration.

Mr. Baker reported that the Committee met on February 21st and the following proposed changes were presented at that time:

1. Applicability – Limit to major subdivisions, public water supply, conditional use, and rezoning applications. Will not apply to

individual residential lots.

Exemptions from the requirements of this ordinance would include:

**Source
Water
Protection
Ordinance
(continued)**

- Private residential wells and wells used for agricultural purposes
 - Replacement wells
 - Minor subdivisions
 - Designated well areas in existing recorded subdivisions
 - Improvements to existing residential lots, including additions to single-family dwellings, sheds fences
2. **DNREC Request** – Copy impervious surface requirements for Excellent Recharge Areas to Wellhead Protection Areas.
3. **DNREC Request** – DNREC and the State geologist must be consulted regarding Wellhead and Excellent Recharge Areas boundary changes. The County will make final decision.
4. **Safe Zone Impact on Adjoining Property** – Public wells shall be sited so that the safe zone is located entirely on lands of applicant or within an area for which applicant has a valid written and recorded easement.
5. **Other**
- Source Water Protection Technical Advisory Committee – 10 members appointed by the Council, including five (5) licensed professional engineers, geologists or hydrologists, instead of 17 on TAC (45% DNREC representatives)
 - County Council to decide on variances instead of Board of Adjustment
 - Variance request charge to be the same as that for Board of Adjustment
 - Ordinance will not apply to previously approved projects which are under construction, or projects that have received preliminary site plan approval
 - Impervious Surface Definition – Sum of roads, parking lots, sidewalks, rooftops, buildings, and other surfaces that do not allow significant amounts of water to penetrate

Mr. Baker reported that the Committee agreed to the proposed amendments and also made the following additional requests regarding the draft ordinance:

- State Wellhead and Excellent Recharge Maps
 - 1- Referenced by the County, but not approved by the County.

Source
Water
Protection
Ordinance
(continued)

(Section 89-5A and 89-5B)

2- DNREC shall be responsible for providing current up-to-date maps and related information to the County.

- **Wellhead Protection Area – delineated by a minimum 60-day time of travel, instead of a 5-year time of travel. (Section 89-6D)**
- **Source Water Protection Technical Advisory Committee - 2 members per Council person; appointed by Council. Council will strive to include one-half of members as licensed professional engineers, geologists, hydrologists, or surveyors. (Section 89-10)**
- **Ordinance would not apply to any projects until 90 days after application to Planning and Zoning.**

Mr. Baker advised that the time of travel is a concern and DNREC was invited to attend this meeting to provide examples and discuss the impact of the 60-day versus the 5-year time of travel (of water moving through the aquifer to the well). Mr. Baker stated that the impact would mostly be on variances, i.e. boundary change requests.

John Barndt, Program Manager, and Doug Rambo, Senior Hydrologist, representatives from DNREC in the Source Water Program, discussed the Wellhead Protection Area and the time of travel issue and related impacts. They stated that time of travel is only one component that goes into the delineation of a wellhead protection area; other considerations are aquifer thickness, depth of the well, pumping rate of the well, etc. They stated that the time of travel component allows for contingency planning and that the State has given most of the water suppliers a 5 year time of travel as a time frame for contingency planning should something happen at the outer edge of a wellhead protection area, such as drilling new wells, adding treatment, etc.

Mr. Barndt suggested a Memorandum of Agreement between DNREC and Sussex County for the siting and permitting of new public drinking water wells within the County. The MOA will help to ensure that any new public well permitted in Sussex County will comply with the provisions of the County's proposed Source Water Protection Ordinance.

Mr. Barndt stated that they would be able to work the following into their well permitting application: any new well permit for Sussex County would have an automatic setback for public wells, depending on the pumping capacity of the well, of either 100 feet or 20 feet from the property line.

Mr. Barndt stated that ongoing, one-on-one, personal communications will be needed, especially when the County is approving plans. He noted that well placement should now be placed on maps exactly on the location where a new well is planned for public water supply.

Mr. Baker reported that Mr. Griffin has revised the draft ordinance to reflect the changes that were recommended by the Source Water Protection Citizen and Technical Advisory Committee, with the exception of (1) the

Wellhead Protection Area (60 day time of travel for larger wells in the confined aquifer area and a 5 year time of travel in the unconfined aquifer), (2) surveyors were not added to the list for the Technical Advisory Committee; and (3) the ordinance would not apply until 90 days after the application is made to Planning and Zoning.

**Ordinance
(continued)**

In response to questions raised by Mr. Phillips, Dan Kramer, a member of the Committee, stated that the Committee's recommendation was not unanimous. Mr. Kramer stated that he believes the 5-year time of travel is excessive.

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 89, SOURCE WATER PROTECTION TO PROTECT CRITICAL AREAS FROM ACTIVITIES AND SUBSTANCES THAT MAY HARM WATER QUALITY OR SUBTRACT FROM OVERALL WATER QUANTITY". The Proposed Ordinance will be advertised for Public Hearing.

**Timber
Purchase
Contracts**

Mike Izzo, County Engineer, presented Timber Purchase Contracts with Glatfelter Pulp Wood Company:

- Land Management Contract for a Timber Management Plan for a thinning operation on approximately 1,200 acres over a 5-year period. Designed to maximize the County's financial return from timber harvests. Pay-as-you-cut operation, with payment based upon the tonnage that is removed. Prices were reviewed and approved by the State Forester.
- Contract for a clear cutting operation for the expansion of spray irrigation facilities for the Inland Bays Wastewater Facility. There is approximately 119 acres of pine and hardwood trees, which will generate revenues of \$65,620.00. Prices were reviewed and approved by the State Forester. The clearing work will be done within a one year period.

Mr. Izzo noted that there is a stipulation that Glatfelter Pulp Wood Company will adhere to the Delaware Forestry Best Management Practices and all sites are required to be left in a condition satisfactory to the County upon completion of the harvesting.

**M 156 08
Approve
Timber
Purchase
Contracts/
Glatfelter
Pulp Wood
Company**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the two contracts with Glatfelter Pulp Wood Company for the management and removal of timber at the Inland Bays Regional Wastewater Facility.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Jones, Yea

**Windstone
Develop-
ment
Windstone
Develop-
ment/
Temporary
Wastewater
Treatment
(continued)**

Mr. Izzo presented a Proposed Temporary Wastewater Service Agreement with Artesian Wastewater Management, Inc. for the Windstone Development (approved for 360 units, none of which exist now), which is located on Route 88 adjacent to existing sewer lines of the West Rehoboth Sanitary Sewer District. Because the development is located outside the sewer planning area, Artesian was selected as the wastewater public utility provider. Mr. Izzo reported that a community spray irrigation wastewater management system had been approved to serve the project. Instead of operating many individual community wastewater systems, Artesian proposes to connect the project to the Island Farms regional wastewater management facility, which recently received Conditional Use approval from the County, but does not yet exist. Given the development schedules for the Windstone community versus the Island Farms regional wastewater project, Artesian has requested a temporary wastewater service connection into the West Rehoboth Sanitary Sewer District. As proposed, Artesian would connect on a temporary basis into the existing County sewer. Sussex County would bill Artesian the West Rehoboth service charge plus transmission and treatment front footage for each home that connects to the system. Mr. Izzo advised that the term of the agreement would be for a maximum of 5 years or until the completion of the regional treatment plant and transmission lines, whichever comes first. A maximum of 100 homes can be connected. It could generate a stream of revenue up to \$40,000 per year at maximum build out. If the temporary connection were not an option, a temporary wastewater holding tank would be proposed to provide interim wastewater management for Windstone. The advantage of the proposed connection would eliminate the negative impacts of pumping and hauling wastewater across the County by tanker truck. Mr. Izzo advised that the temporary connection would not overload the existing West Rehoboth wastewater system as there is capacity on a short term basis to serve up to 100 EDUs. Artesian would be responsible for all construction costs necessary to make the temporary connection.

Mr. Dukes stated that he would support this type of proposal if the County had written agreements with the subdivisions (and not just a verbal agreement).

It was suggested that the County should charge a higher rate for extending service outside of a district, such as modifying the service charge by a factor of 1.5.

**M 157 08
Modify
Service
Charge/
Wastewater
Treatment/
Windstone**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to modify the service charge for temporary wastewater service to the Windstone Development by a factor of 1.5.

Motion Adopted: 5 Yeas.

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

Development	Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 158 08 Agreement M 158 08 Approve Agreement/ Artesian/ Windstone Develop- ment (continued)	<p>A Motion was made by Mr. Cole, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Agreement with Artesian Wastewater Management, Inc. to provide wastewater treatment and disposal to the Windstone Development, with a modification to the Agreement whereby the service charge is adjusted by a factor of 1.5.</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>
Proposed Golf Village SSD Schedule	<p>John Ashman, Director of Utility Planning, presented a schedule for the Golf Village Sanitary Sewer District referendum. The referendum will be held on May 1, 2008 in the Sussex County Council Chambers from 1:00 p.m. to 7:00 p.m. No action was required by the Council.</p>
M 159 08 Go Into Executive Session	<p>At 11:27 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Rogers, to recess the Regular Session and to go into Executive Session for the purpose of discussing land acquisition, pending/potential litigation, personnel and collective bargaining.</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>
Executive Session	<p>At 11:28 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing land acquisition, pending/potential litigation, personnel and collective bargaining. No action was taken during the Executive Session. The Session concluded at 12:00 noon.</p>
M 160 08 Reconvene Regular Session	<p>At 12:01 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to come out of Executive Session and return to Regular Session.</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>
M 161 08 Recess	<p>At 12:01 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess until 1:30 p.m. Motion Adopted by Voice Vote.</p>

Luncheon Meeting	The Sussex County Council attended a luncheon meeting with the Sussex Conservation District at the County's West Complex Building. A presentation was given by the Sussex Conservation District on the Tax Ditch Right-of-Way Task Force.
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Reconvene Mr. Jones called the Council back into session at 1:34 p.m.

M 162 08 **At 1:34 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Phillips,**
Go Into **to go into Executive Session for the purpose of discussing pending/potential**
Executive **litigation.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Executive Session **At 1:35 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing pending/potential litigation. No action was taken during the Executive Session. The Session concluded at 1:45 p.m.**

**M 163 08 At 1:46 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Phillips,
Reconvene to come out of Executive Session and return to 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

Requests **Mrs. Webb presented grant requests for the Council's consideration.**

M 164 08 Council- manic Grant	A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$500.00 (\$250.00 each from Mr. Rogers' and Mr. Jones' Councilmanic Grant Accounts) to the Milford Senior High School for After-Prom Party expenses.
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Motion Adopted: 5 Yeas.

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

M 165 08 Councilmanic Grant

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$200.00 from Mr. Jones' Councilmanic Grant Account to the Woodbridge School District for the Reading Program.

Motion Adopted: 5 Yeas.

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

M 166 08 Youth Activity Grant A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to Delaware State Parks for Healthy Kids Day at Trap Pond State Park.

Motion Adopted: 5 Yeas.

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

M 167 08 Community Investment Grant A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 from Mr. Jones' Community Investment Grant Account to the Friends of the Bridgeville Library for the Art Auction.

Motion Adopted: 5 Yeas.

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

M 168 08 Councilmanic Grant A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$600.00 from Mr. Jones' Councilmanic Grant Account to Kent Sussex Industries for the Annual Golf Tournament 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 169 08 Community Investment Grant A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$4,000.00 from Mr. Dukes' Community Investment Grant Account to the Town of Laurel for the purchase of a GIS workstation.

Motion Adopted: 5 Yeas.

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

M 170 08 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the First State Antique Tractor Club for their annual show.

- (Denied)** **Motion Denied:** **3 Nays, 2 Yeas.**
- Vote by Roll Call:** **Mr. Cole, Yea; Mr. Phillips, Nay;**
 Mr. Dukes, Nay; Mr. Rogers, Yea;
 Mr. Jones, Nay
- M 171 08** **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give**
Council- **\$1,000.00 (\$200.00 from each Councilmanic Grant Account) to the First**
manic **State Antique Tractor Club for their annual show.**
Grant
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mr. Cole, Yea; Mr. Phillips, Yea;**
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea
- M 172 08** **A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$500.00**
Youth **from Mr. Rogers' Youth Activity Grant Account to the Lewes Little League**
Activity **for expenses.**
Grant
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mr. Cole, Yea; Mr. Phillips, Yea;**
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea
- M 173 08** **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$1,000.00**
Council- **from Mr. Dukes' Councilmanic Grant Account to Nanticoke Health**
manic **Services for the Annual Dinner/Auction.**
Grant
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mr. Cole, Yea; Mr. Phillips, Yea;**
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea
- M 174 08** **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give**
Community **\$5,000.00 from Mr. Dukes' Community Investment Grant Account to the**
Investment **Nanticoke Little League for two new fields.**
Grant
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mr. Cole, Yea; Mr. Phillips, Yea;**
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea
- M 175 08** **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give**
Community **\$2,500.00 from Mr. Dukes Community Investment Grant Account to the**
Investment **Town of Bethel for police patrol costs.**
Grant

Motion Adopted: 5 Yeas.

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

**Old
Business/
Appeal of
Lacrosse
Homes of
Delaware**

The Council considered an Appeal of the Sussex County Planning and Zoning Commission's decision to deny an application of Lacrosse Homes of Delaware, Inc. for the subdivision of land (The Village at Trussum Pond) in an AR-1 Agricultural Residential District in Little Creek Hundred, Sussex County, by dividing 213.64 acres into 320 lots (Cluster Development), located north of Road 70 (Gordy Road), 1,500 feet west of Road 72 (Wooten Road) and on both sides of Road 462 (Trussum Pond Road).

A Public Hearing on the Appeal was held by the Sussex County Council on October 23, 2007 at which time action was deferred.

**M 176 08
Reaffirm
Decision
of P&Z
Commission
Regarding
Lacrosse
Homes
(Motion
Failed)**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to reaffirm the decision of the Planning and Zoning Commission (regarding the application of Lacrosse Homes of Delaware, Inc.)

Motion Failed: 2 Yeas, 2 Nays, 1 Absent.

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

**Clarifi-
cation of
Results
of Vote**

Mr. Cole and Mr. Rogers voted "Yea" based on the record of the Planning and Zoning Commission.

Mr. Dukes did not participate in the discussion or the vote.

Mr. Cole and Mr. Lank questioned if the vote taken by the Council resulted in the Commission's decision being reaffirmed. Mr. Jones responded "Yes".

In response to further questions, Mr. Jones stated that a 2-2 vote means that there was not a majority vote and he suggested that Mr. Lank question the County Attorney regarding the outcome of the vote.

**Old
Business/
Source
Water
Protection
Ordinance**

The Council discussed the original Proposed Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 89, SOURCE WATER PROTECTION".

A Public Hearing was held on this Proposed Ordinance on December 18, 2007.

**M 177 08
Adopt
Proposed**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 89, SOURCE WATER PROTECTION".

**Ordinance
(Denied)**

Motion Denied: 5 Nays.

**M 177 08
(continued)**

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

**Reasons
for
Denial**

Councilmembers commented that they voted “Nay” because a new Proposed Ordinance is in the process. (The Proposed Ordinance entitled “AN ORDINANCE TO ADOPT CHAPTER 89, SOURCE WATER PROTECTION TO PROTECT CRITICAL AREAS FROM ACTIVITIES AND SUBSTANCES THAT MAY HARM WATER QUALITY OR SUBTRACT FROM OVERALL WATER QUANTITY” was introduced on this date.

**Old
Business/
Illegal
Signs
Ordinance**

The County Council considered the Proposed Ordinance entitled “AN ORDINANCE TO AMEND SECTION 115-160 OF THE CODE OF SUSSEX COUNTY WITH RESPECT TO ILLEGAL SIGNS”.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on August 23, 2007 at which time they recommended that the Proposed Ordinance be adopted.

On September 18, 2007, the Council held a Public Hearing and deferred action.

Mr. Baker reported that in December 2007, the Council again discussed the Proposed Ordinance and based on the discussion, Mr. Griffin was asked to make a few changes to the Proposed Ordinance. The changes included amendments to the enforcement provisions and the correction of technical problems with the Proposed Ordinance.

Mr. Baker reviewed the 180 day phased implementation schedule contained in the revised version of the Proposed Ordinance, as follows:

A. During the first 30 days following enactment, violators and persons whose businesses are being advertised by the illegal signs will, to the extent the County is able to determine their current mailing addresses, receive a letter from the County, enclosing a copy of this ordinance and advising them of the penalties for placing or authorizing the placement of illegal signs within areas where the County has zoning jurisdiction. The public at large will be notified of the enactment of this ordinance by its placement on the County website and by a press release explaining the adoption of the ordinance and encouraging voluntary compliance with its terms and conditions.

**Old
Business/
Illegal
Signs
Ordinance
(continued)**

B. During the 150 days following the 30 day period described in Subsection A, illegal signs will be removed and retained for retrieval by violators and/or persons whose businesses are being advertised by such signs, but no removal fees will be levied. During the 150 day period, signs may be retrieved from the County Constable's Office by the payment of a retrieval fee of Fifteen Dollars (\$15.00) payable to Sussex County.

C. Beginning 180 days following enactment, the County will be free to dispose of all removed illegal signs and shall not be held liable for doing so. Sussex County will collect a removal fee of Twenty-Five Dollars (\$25.00) per sign from the owner of an illegal sign or from the owner of the real property from which an illegal sign has been removed, if the owner gave permission for the placement of the illegal sign or from the owner of the entity whose business or development is being promoted or advertised by the illegally placed sign.

Mr. Griffin noted that, in the original Proposed Ordinance, quotation marks were used for inserted material and that in the revised Proposed Ordinance, underlining was substituted for the quotation marks; in addition, brackets were used for deleted material in the revised version. Mr. Griffin noted that any approval of the Proposed Ordinance by the Council should reflect these technical changes as well as the 180 day phased implementation period.

**M 178 08
Adopt
Ordinance
No. 1953
(Illegal
Signs
Ordinance)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1953 entitled "AN ORDINANCE TO AMEND SECTION 115-160 OF THE CODE OF SUSSEX COUNTY WITH RESPECT TO ILLEGAL SIGNS", as revised and presented by the County Attorney.

Motion Adopted: 5 Yeas.

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

**Additional
Business**

Under Additional Business, Dan Kramer commented on the Source Water Protection Citizen and Technical Advisory Committee on which he served, stating that he is glad that the Committee "is no longer".

**M 179 08
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 2:10 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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