



## *Sussex County Council Agendas & Minutes*

### **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 27, 2007**

#### **Call to Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 27, 2007 at 10:00 a.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>Hal Godwin</b>           | <b>Assistant to the County Administrator</b> |
| <b>James D. Griffin</b>     | <b>County Attorney</b>                       |

#### **M 129 07 Amend and Approve Agenda**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda by deleting "Bond Counsel Recommendation" under David Baker, County Administrator, and to approve the Agenda, as amended.

**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**

**(See Motion No. M 131 07)**

#### **M 130 07 Approve Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of February 6, 2007.

**Motion Adopted: 5 Yea.**

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

**Corre-  
spondence**

**Mr. Griffin read the following correspondence:**

**FRIENDS OF THE MILLSBORO PUBLIC LIBRARY, MILLSBORO, DELAWARE.**

**RE: Letter thanking the Council for making a donation to their Gala and Auction.**

**INDIAN RIVER BASEBALL BOOSTERS, MILLVILLE, DELAWARE.**

**RE: Letter thanking the Council for their recent donation.**

**Corre-  
spondence  
(continued)**

**DEANNA WEDDING, LAUREL, DELAWARE.**

**RE: Letter thanking the Council for sponsoring her as a Student Ambassador.**

**DELMARVA CHRISTIAN HIGH SCHOOL, GEORGETOWN, DELAWARE.**

**RE: Letter thanking the Council for its financial support of their CPR program.**

**DIAMOND STATE COMMUNITY LAND TRUST, DOVER, DELAWARE.**

**RE: Letter thanking the Council for the \$50,000 Community Investment Grant.**

**NANTICOKE LITTLE LEAGUE, SEAFORD, DELAWARE.**

**RE: Letter to Councilman Dukes in appreciation of his donation to their organization.**

**LAUREL ALUMNI SCHOLARSHIP FOUNDATION, INC. LAUREL, DELAWARE.**

**RE: Letter to Councilman Dukes in appreciation of his donation to their organization.**

**SEAFORD COMMUNITY FOOD CLOSET, SEAFORD, DELAWARE.**

**RE: Letter thanking the County for the food donation through the Caroling on The Circle food campaign.**

**GREATER SEAFORD CHAMBER OF COMMERCE, SEAFORD, DELAWARE.**

**RE: Letter thanking the Council for its monetary support of the commemoration of the exploration of the Nanticoke River by Captain John Smith (four hundred years ago).**

**DELAWARE DEPARTMENT OF TRANSPORTATION, DOVER, DELAWARE.**

**RE: Letter advising that there will be no improvements made to the Warrington and Old Landing Road Intersection at this time.**

**DELAWARE DEPARTMENT OF TRANSPORTATION, DOVER,**

**DELAWARE.**

**RE: Notice of Public Workshop on the US 113 North/South Study.**

**Proposed Amendment to Agenda**      President Dukes reopened the discussion on the Agenda and its previous approval. He stated that he was advised by staff that the “Vehicle Bid Award Recommendation” should have been removed from the Agenda at the time it was presented for approval.

**M 131 07 Amend and Approve Agenda**      A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by deleting “Vehicle Bid Award Recommendation” listed under Frank Shade, Purchasing Officer and Fleet Manager.

**Motion Adopted:**      5 Yea.

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

**Sussex County Land Trust/Property Purchase Recommendation**      Wendy Baker, President and Chief Executive Officer of the Sussex County Land Trust (SCLT), was in attendance to discuss a request that the County transfer its \$1.5 million pledge to the Tunnell Tract, a 755 acre tract of land located northeast of Redden State Forest.

Ms. Baker stated that, in 2004, she presented a request to the Council to partner with the State of Delaware on the Angola Neck property. At that time, the Council approved the acquisition in three installments for a total pledge request in the amount of \$1.5 million. Ms. Baker reported that the State secured the funding for this property right away and they are now requesting the assistance of the SCLT to help acquire and permanently protect the Tunnell Tract. Ms. Baker explained that this acquisition would represent only 327 of the 755 acres and that the area would be open for public access. She noted that this property is a top priority for protection for the State and would provide vital forest lands for the County. Ms. Baker advised that the State has requested that the SCLT contribute \$1.5 million to the Tunnell transaction, as follows: (a) provide \$500,000 as a first installment for the phase that is scheduled to be completed by March 1, 2007 and (b) provide a second installment of \$1,000,000 by the project completion date of December 4, 2007. Ms. Baker reported that the SCLT, at a Board meeting on December 16, 2005, approved the acquisition and requested that Ms. Baker present the request to the Sussex County Council when the acquisition proceeded forward from The Conservation Fund.

Austin Short of the State Forestry Division stated that the proposal is for the purchase of 327 acres in fee at a total purchase price of \$5.2 million. He noted that \$1.5 million of the total purchase price is proposed to come from Council funding and that the rest would be Federal and State funding.

**Blaine Phillips of The Conservation Fund stated that their role has been to purchase the property on behalf of the State with the intent of transferring it to the State to be added to the Redden State Forest. He reported that the property was purchased in December 2005 and that the appraisal was performed in the Fall of 2005.**

**David Baker noted that the County's contribution would be for property that would become a part of Redden State Forest.**

**(continued) Wendy Baker noted that the property fits within the Conservation Corridor Loop and that it is an integral linkage opportunity.**

**M 132 07  
Approve  
Contri-  
bution/  
Purchase  
of Tunnell  
Tract/  
SCLT**      **A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council approves a contribution of \$1.5 million towards the purchase of 327 acres (Tunnell Tract) contiguous to the Redden State Forest, as recommended by the Sussex County Land Trust.**

**Motion Adopted:      5 Yea.**

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

**Caroling  
on The  
Circle  
Food  
Drive/  
Recognition  
of Major  
Contri-  
butors**      **Mr. Baker announced that 27,000 food items were raised during the Caroling on The Circle Food Drive:**

|                                                                          |              |
|--------------------------------------------------------------------------|--------------|
| <b>Beacon Middle School</b>                                              | <b>2,000</b> |
| <b>First State Manufactured Housing Association</b>                      | <b>4,000</b> |
| <b>Georgetown Elementary School</b>                                      | <b>1,700</b> |
| <b>General Public</b>                                                    | <b>1,800</b> |
| <b>H. O. Brittingham Elementary School</b>                               | <b>1,200</b> |
| <b>North Georgetown Elementary School</b>                                | <b>1,200</b> |
| <b>Punkin Chunkin Association/<br/>Harley Davidson of Rehoboth Beach</b> | <b>3,000</b> |
| <b>Southern Delaware School of Arts</b>                                  | <b>500</b>   |
| <b>Sussex Central Middle School</b>                                      | <b>1,200</b> |
| <b>Sussex County Council</b>                                             | <b>1,200</b> |
| <b>Sussex County Employees</b>                                           | <b>1,200</b> |
| <b>Sussex Manufactured Home Tenants Association</b>                      | <b>8,000</b> |

**The food items were distributed to eleven food pantries in the County.**

**Mr. Baker recognized the major contributors of the Food Drive and plaques were presented to those in attendance. The following organizations were represented at the meeting: North Georgetown Elementary School, Georgetown Elementary School, Sussex County Manufactured Home Tenants Association, and the Punkin Chunkin Association/Harley Davidson of Rehoboth Beach.**

**Jim Hudson of North Georgetown Elementary reported that they actually contributed over 2,500 food items.**

**Mr. Baker recognized several County employees who helped organize and administer the program: Diana Pettyjohn, Susan Wise, Jamie Hall, and Ray Webb.**

**M 133 07  
Adopt  
Procla-  
mation**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt the Proclamation entitled “PROCLAIMING THE MONTH OF MARCH AS WOMEN’S HISTORY MONTH AND MARCH 7, 2007 AS AUDREY DOBERSTEIN AND REBA ROSS-HOLLINGSWORTH DAY”.**

**Motion Adopted: 5 Yea.**

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

**Present  
Procla-  
mation**

**The Proclamation was presented to Rhonda Tuman, Career Services Coordinator at Delaware Technical & Community College, who thanked the Council for its continued support of the event.**

**Adminis-  
trator’s  
Report**

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

**1. Public Workshop – Bethany Beach and Williamsville Area 800 MHz Communications Towers**

**Attached is information regarding a public workshop to be held by the State of Delaware regarding the proposed installation of two towers on County property at the wastewater treatment plant near Bethany Beach and on County property on Route 54. The public workshop is scheduled for March 7, 2007, between 5:30 and 7:30 p.m. at the Lord Baltimore Elementary School cafeteria.**

**2. National Association of Counties 2007 Legislative Conference**

**Due to the National Association of Counties Legislative Conference in Washington, D.C., from March 3 through March 7, 2007, the normally scheduled March 6 County Council meeting will not be held. County Councilmen and some staff will be attending the Conference, which is of benefit in learning about other county governments and in meeting with Delaware’s congressional delegation.**

**3. US 113 North/South Study – Public Workshops**

As per the attached public notices, the Delaware Department of Transportation will be holding public workshops regarding the Route 113 North/South Study on February 27 at Benjamin Banneker Elementary School in Milford, March 12 at East Millsboro Elementary School, and March 15 at the CHEER Community Center in Georgetown. Information regarding these workshops is attached.

Adminis-  
trator's  
Report  
(continued)

**4. Beneficial Acceptance**

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

- Breakwater Estates (corrected benchmark set), Agreement No. 692 – 1-Phase 1A, was granted Beneficial Acceptance on February 14, 2007. The developer is Mark Chura, Breakwater, L.L.C., and the project is located on the north side of Gills Neck Road (SCR 267) in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 20 single-family lots, 42 duplexes, and 18 multi-family units.
- Beach Air Landing (also known as Chapel Crossing), Agreement No. 541, was granted Beneficial Acceptance on February 16, 2007. The developer is Michael Lynn, RDM. Inc., and the project is located on Route 26, east of Route 113, in the Dagsboro/Frankford Sanitary Sewer District, consisting of 98 townhouse units.
- Hudson Homes Force Main, Agreement No. 376, was granted Beneficial Acceptance on February 23, 2007. The developer is Craig Hudson, Hudson Homes, and the project is located on the north side of Route 24 and Route 1 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of four-inch PVC C-900 pipe.

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

**5. Director of Treasury Division – Amanda M. Bennett**

We are pleased to announce that Amanda M. Bennett has been promoted to Director of the Treasury Division. Amanda served as Assistant Director of the Treasury Division under Joyce Lord. Ms. Lord recently retired. Amanda has prior experience working in the Assessment and Information Systems departments, as well as working for Discover Bank.

We would like to congratulate Ms. Bennett and wish her the best of

luck in her new position.

**Actuarial Valuation for the Sussex County Post-Employment Benefit Plan Actuarial Valuation (continued)** Susan Webb, Finance Director, reviewed a draft of the January 1, 2006 Actuarial Valuation for the Sussex County Post Retirement Benefit Plan. She reported that the present value of the future benefits of the plan is \$40.5 million, which represents a liability to the County. The majority of this liability is for current active employees for benefits expected to be paid after they retire. Mrs. Webb advised that the value of the assets in this Plan is \$9.9 million, as of December 2006. She noted that, last year, the County contributed \$4.7 million and \$1.5 million of that amount came from Appropriated Surplus. She stated that the \$4.7 million contribution made in December 2006 is not reflected in the total assets value of \$9.9 million. Mrs. Webb also advised that the 2006/2007 Annual Required Contribution is \$3.4 million, which will be considered during the budget process.

Mrs. Webb reported that, in 2002, the value of the future benefits of the plan was estimated at \$19 million compared to \$40.5 million in Fiscal 2006. She explained that the liability amount has increased due to the cost of health insurance, the number of participants, and the increase in medical trends.

**Wastewater Agreement** Mr. Godwin presented a wastewater agreement for the Council's consideration.

**M 134 07 Approve Wastewater Agreement/ ACRI Construction** A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 669, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and ACRI Construction, LLC, for wastewater facilities to be constructed in the Ocean View Expansion of the Bethany Beach Sanitary Sewer District.

**Motion Adopted:** 5 Yea.

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

**Paramedic Station No. 102/ Lease Renewal** Glenn Luedtke, Director of EMS, proposed the renewal of a Lease Agreement with Laurel Fire Company, Inc. for Paramedic Station 102. He reported that the amount of the lease is proposed to be increased by three percent over last year resulting in a monthly rental amount of \$984.00. The new lease shall commence on April 1, 2007, pending the Council's approval.

**M 135 07 Approve Lease Agreement/ Paramedic** A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the Lease Agreement between the Laurel Fire Company, Inc. and Sussex County, Delaware, as described therein by Sussex County EMS as Paramedic Station 102.

|                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|---------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Station<br/>No. 102</b>                                                                                          | <b>Motion Adopted: 5 Yea.</b><br><br><b>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;<br/>Mr. Rogers, Yea; Mr. Jones, Yea;<br/>Mr. Dukes, Yea</b>                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Paramedic<br/>Training<br/>Program</b>                                                                           | <b>Mr. Luedtke announced that the next seven students have registered for the Paramedic Training Program at Delaware Technical &amp; Community College.</b>                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>SCRWF<br/>Expansion/<br/>Contract<br/>Amendment</b>                                                              | <b>Michael Izzo, County Engineer, presented an amendment to the County's Contract with Stearns &amp; Wheler, LLC for the South Coastal Regional Wastewater Facilities (SCRWF), Expansion No. 2. He noted that the Council recently awarded a construction bid to Consolidated Builders for an expansion of the maintenance facility and administration building at SCRWF. He explained that the proposed contract with Stearns &amp; Wheler is for the inspection of that facility. Mr. Izzo advised that the total (time and materials) contract amount would be \$299,915.00.</b> |
| <b>M 136 07<br/>Approve<br/>Contract<br/>Amend-<br/>ment/<br/>Stearns &amp;<br/>Wheler/<br/>SCRWF<br/>Expansion</b> | <b>A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the County Engineering Department, that Amendment No. 8 to the Agreement with Stearns &amp; Wheler, LLC be approved to provide construction phase engineering services for the personnel facilities upgrade of the South Coastal Regional Wastewater Facilities, at a cost not to exceed \$299,915.00.</b><br><br><b>Motion Adopted: 5 Yea.</b><br><br><b>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;<br/>Mr. Rogers, Yea; Mr. Jones, Yea;<br/>Mr. Dukes, Yea</b>            |
| <b>Requests</b>                                                                                                     | <b>Susan Webb presented grant requests for the Council's consideration.</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>M 137 07<br/>Council-<br/>manic<br/>Grant</b>                                                                    | <b>A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to The Auxiliary of Stockley Center for the Stockley Stride event.</b><br><br><b>Motion Adopted: 5 Yea.</b><br><br><b>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;<br/>Mr. Rogers, Yea; Mr. Jones, Yea;<br/>Mr. Dukes, Yea</b>                                                                                                                                                                                                                    |
| <b>M 138 07<br/>Community<br/>Improve-<br/>ment<br/>Grant</b>                                                       | <b>A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$3,200.00 from Mr. Cole's Community Improvement Grant Account to the CHEER Coastal Leisure Center for fitness equipment.</b><br><br><b>Motion Adopted: 5 Yea.</b>                                                                                                                                                                                                                                                                                                                                                |



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

**M 139 07 Councilmanic Grant** A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to Sussex County Animal Association, Inc. & Whimsical Animal Rescue for veterinary expenses.

**Motion Adopted:** 5 Yea.

**M 139 07 (continued)** **Vote by Roll Call:** Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Rogers, Yea; Mr. Jones, Yea;  
Mr. Dukes, Yea

**M 140 07 Community Improvement Grant** A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$5,000.00 from Mr. Phillips' Community Improvement Grant Account to the Town of Dagsboro to erect a memorial for fallen public servants.

**Motion Adopted:** 5 Yea.

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

**M 141 07 Councilmanic Grant** A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$800.00 (\$160.00 from each Councilmanic Grant Account) to Sussex Central High School for the Minority Leadership Alliance's basketball game fundraiser.

**Motion Adopted:** 5 Yea.

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

**Additional Business/ Sonny Bonno** Under *Additional Business*, Sonny Bono of Lincoln reported on a DelDOT meeting that was held on February 26, 2007. He stated that the "Concerned Citizens of Lincoln" spoke against the proposed limited access highway and the proposed Route 113 Bypass.

**Additional Business/ Gary Clevenger** Under *Additional Business*, Gary Clevenger of Rogers Haven near Ocean View notified the Council of a situation involving a roll-back dumpster where off-site "spoils" are being brought in.

The Council discussed the matter and questioned (1) if the County Code should be amended and (2) how regulations, if enacted, would be enforced.

The Council directed Mr. Godwin to call the contractor to ask him how much longer he expects the dumpster to remain on site and to ask him to have it removed from the property as soon as possible. Mr. Godwin was

also directed to stay in contact with Mr. Clevenger on this issue.

**M 142 07**      **At 11:28 a.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to**  
**Recess**            **recess until 1:30 p.m. Motion Adopted by Voice Vote.**

**Reconvene**      **Mr. Dukes called the Council back into session at 1:30 p.m.**

**Attendees**      **Mr. Baker and Mrs. Webb were not present during the afternoon session of**  
                         **the meeting.**

**Lawrence Lank, Director of Planning and Zoning, joined the meeting.**

**Public**            **A Public Hearing was held on the Proposed Ordinances entitled “AN**  
**Hearing/**        **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**  
**C/Z Nos.**        **SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL**  
**1605 and**        **DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO A MR-**  
**1606**            **RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL**  
                         **PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND**  
                         **LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY,**  
                         **CONTAINING 93.67 ACRES, MORE OR LESS” (Change of Zone No.**  
                         **1605) filed on behalf of Nentego Properties, LLC and “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 INDIAN RIVER**  
                         **HUNDRED, SUSSEX COUNTY, CONTAINING 15.73 ACRES, MORE**  
                         **OR LESS” (Change of Zone No. 1606) filed on behalf of Nentego**  
                         **Properties, LLC.**

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

**Mr. Lank reported that the Planning and Zoning Commission held a Public**  
**Hearing on these applications on February 8, 2007 at which time action was**  
**deferred for further consideration.**

**(See the minutes of the meeting of the Planning and Zoning Commission**  
**dated February 8, 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 announced that two additional pieces of correspondence had been**  
**received since February 8, 2007:**

- **An email from Laura Mckeown, a resident of the Oak Orchard area,**  
**expressing concern about the increase in development along Route**

**24 and the lack of safety improvements to Route 24. (Email dated and received February 27, 2007.)**

- **A letter from Constance C. Holland, Director, Office of State Planning Coordination, responding to the Applicant's response to the Preliminary Land Use Service (PLUS) comments. (Letter dated February 19, 2007; received February 27, 2007.)**

**Public  
Hearing/  
C/Z Nos.  
1605 and  
1606  
(continued)**

**Mark Handler and Randy Mitchell, representatives of the ownership of Nentego Properties, LLC were present with Dennis Schrader, Attorney, and Holly Hearn and Jason Palkewicz of McCrone, Inc.**

**Mr. Schrader distributed books of information on the proposed project to the Councilmembers.**

**Mr. Schrader referred to comments made by James Norwood in opposition to the project (at the Public Hearing before the Planning and Zoning Commission) regarding the nuisance value of ATVs that exist now in adjacent areas and that may exist in the proposed project. Mr. Schrader stated that the common elements of the project will include a ban on ATVs.**

**Mr. Schrader stated that there is currently a proposed expansion to the Oak Orchard Sanitary Sewer District and that it has been approved by the Council that the County Engineering Department is authorized to prepare and post notices of the proposed expansion and to conduct public hearings on the matter. Mr. Schrader stated that a wastewater treatment plant site is proposed as part of the project. He noted that this site was proposed by the design team in 2005 when the project was originally being designed and when application was made. Mr. Schrader stated that the Applicant has agreed to cooperate in and be a part of the expansion and has made some agreements with the County concerning a financial contribution to the expansion. Mr. Schrader clarified for the record that, although the Applicant has a design for a wastewater treatment facility, they want to be in the County's Sanitary Sewer District. He stated that if the Sewer District Expansion is approved, the Applicant would have to look at a significant redesign of the treatment plant.**

**The Applicant's presentation to the Council consisted of the same information presented to the Commission. (See the minutes of the meeting of the Planning and Zoning Commission dated February 8, 2007.)**

**Mr. Palkewicz noted that a house is located on the site that has historical value; however, they have received a letter from the State authorizing the removal of the house.**

**The Applicant submitted suggested findings of fact and conditions of approval.**

Mr. Cole expressed concern about the conceptual plans of the commercial portion of the project and he referenced the fact that 12 residential units per acre are permitted in C-1 zoning.

In response to questions raised by Mr. Cole, Mr. Schader stated that an analysis was done on what sewer capacity at the County's treatment plant was available for this project; that the 440 EDUs is the maximum capacity that is available; and that the use of the project as an RPC and commercial site exhausts the available EDUs.

Public  
Hearing/  
C/Z Nos.  
1605 and  
1606  
(continued)

Mr. Griffin requested that he be provided with a copy of any modifications that the Applicant might propose to the RPC area. He also noted that, as to the C-1 area, if the Applicant elects to self-restrict against any commercial uses, he would like to have proof of that as well.

John Ashman, Director of Utility Planning, Sussex County Engineering Department, responded to questions raised by Mr. Cole. He stated that the Department has known about this project for a while and has planned and allotted for 440 maximum EDUs; that in calculating the EDUs, they grouped it together as one project; and that he is unsure if it could be split off as a separate C-1 area for residential units.

Mr. Schrader noted that there are only 55 EDUs outside of the RPC area.

Mr. Ashman stated that he would submit his findings, in writing, to the Council.

In response to questions raised by Mr. Cole, Mr. Lank reviewed the Traffic Impact Study. It was noted, however, that a Level of Service change was not available.

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

M 143 07  
Defer  
Action on  
C/Z Nos.  
1605 and  
1606

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Change of Zone No. 1605 and Change of Zone No. 1606 filed on behalf of Nentego Properties, LLC.

Motion Adopted: 5 Yea.

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

M 144 07  
Adjourn

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to adjourn at 2:15 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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