



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 3, 2007

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 3, 2007 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 210 07 Amend and Approve Agenda

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to amend the Agenda by striking the following:

- Request for Executive Session – Pending or Potential Litigation
- Introduction of Proposed Zoning Ordinances
- Grant Requests from Families Connected, Inc. and Laurel Fireworks Celebration

; and by amending Item No. 6 under David Baker, County Administrator, by striking the words “and Possible Introduction”;

and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 211 07 Approve Minutes

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of March 13, 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
Corre-
spondence
(continued)**

Mr. Griffin read the following correspondence:

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

RE: Notice of Public Workshop on Sussex County Transportation Plan Update and the Mobility Element of the Sussex County Comprehensive Plan – Monday, April 23, 2007 at 5:30 p.m. at the Bridgeville Fire Hall and Wednesday, April 25, 2007 at 5:30 p.m. at the Rehoboth Beach Convention Center.

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

RE: Delaware Capital Transportation Program Public Meetings Scheduled on DelDOT's 6-Year Plan – in Sussex County at DelDOT's Administration Building located on DuPont Highway in Georgetown on Wednesday, April 18, 2007. Workshop Session – 4:00 p.m. to 7:00 p.m. Presentation – 5:00 p.m.

**Route 113
North/
South
Study**

Mr. Baker stated that, at the March 27th Council meeting, a report was given by Monroe Hite from the Delaware Department of Transportation regarding the Proposed Route 113 Limited Access Highway. Mr. Baker noted that DelDOT has held various public meetings regarding proposed by-pass alternatives and DelDOT's goal is to decide on a preferred alternative. Mr. Hite previously noted that construction on such a project would probably take approximately ten years unless sufficient funding becomes available prior to that time. Mr. Hite also noted, in regards to the Georgetown by-pass option, that their emphasis now is on the on-alignment option. In regards to the Milford-Lincoln option, the most preferred option is the Brown Alternative and DelDOT will more closely review the environmental concerns of that option.

Mr. Baker reported that, at the March 27th Council meeting, a presentation was heard from Lincoln-area residents who presented a copy of a petition asking the Council to approve a Resolution that DelDOT should not pursue options through Lincoln.

Mr. Baker advised that the Route 113 Milford-Lincoln Working Group will meet on April 11th at the Carlisle Fire Hall to consider the various options.

The Council discussed the various alignment options. It was the consensus of the Council that Mr. Baker would work with Mr. Phillips and Mr. Jones to draft a letter. They agreed that the letter would be circulated to the

members of the Council for their consideration prior to the letter being forwarded to DelDOT. It was noted that the letter should express that the Council is concerned that the alignment plans are not meeting the needs of the people; that the Council supports some form of limited access highway; and that the Council would like DelDOT to use an on-line alignment, whenever possible. It was noted that the letter should be received by DelDOT no later than April 11th, which is when the public record will be closed.

Route
113
North/
South
Study
(continued)

Mr. Dukes stated that the Council would hear public comments. Donna Atkinson, a member of the Georgetown Working Group, stated that the Route 113 Project would alleviate traffic from Route 1; however, the problem in Sussex County is the movement of traffic east to west and not north to south. She stated that the bypass proposed around Georgetown would siphon off 38,000 cars a day from Route 1. Ms. Atkinson expressed concern that the proposed on-alignment alternative would cut off almost all highway access to local businesses. She suggested overpasses instead of bypasses to stay on-alignment, which would address traffic light concerns.

Mr. Johnson stated that the problem in Sussex County is that some of the roads are parking lots (Routes 1, 54, and 26) in the summer. He stated that DelDOT should address the problem where it exists (at the bottleneck in Dewey Beach and Bethany Beach), which in turn would relieve the whole situation.

Joe Warnell referenced DelDOT's plan to make Route 113 a limited access highway. He stated that two-thirds of the traffic on Route 113 is local traffic; that to close Route 113 to local traffic would be a big mistake; and that access to Route 113 would only be allowed at major intersections.

M 212 07
Adopt
Procla-
mation

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt the Proclamation entitled *"PROCLAIMING APRIL 16 THROUGH APRIL 21, 2007 AS NATIONAL VOLUNTEER WEEK AND PROCLAIMING APRIL 19, 2007 AS RSVP DAY IN SUSSEX COUNTY"*.

Motion Adopted: 5 Yea.

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

Procla-
mation

The Council presented the Proclamation to Mary Ann Hook. Ms. Hook thanked the Council for its continued support of RSVP.

M 213 07
Adopt
Tribute

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Tribute congratulating the Coastal-Georgetown American Association of University Women in celebration of their 50th Anniversary.

Motion Adopted: 4 Yea, 1 Absent.

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

**Punkin
Chunkin
Association
Request
Funding
Request
(continued)**

Stephanie Coulbourne, Secretary of the World Championship Punkin Chunkin Association (WCPKA), discussed grant funding for the 2007 event. She stated that the Council's help is imperative to the continuance of the event due to rising costs and costs associated with moving to a new location. Ms. Coulbourne stated that they are requesting that the Council consider a grant in the amount of \$25,000. Mr. Baker responded that the grant request from the World Championship Punkin Chunkin Association would be considered during the budget process.

**Draft
Ordinance
Relating to
an Increase
in Density
and
Preservation
of Open
Space**

Mr. Baker distributed a draft of a Proposed Ordinance entitled "AN ORDINANCE TO AMEND ORDINANCE NO. 1842 AMENDING CHAPTER 115 SECTION 25 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF DENSITY IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE PRESERVATION OF OPEN SPACE IN SUSSEX COUNTY". He noted that the draft was being presented for discussion purposes only.

Mr. Baker explained that the Council previously discussed possible amendments to the Cluster Density Trade Ordinance. Vince Robertson, Assistant County Attorney, has drafted an ordinance which (1) would increase open space requirements from 30 percent to 40 percent by affording the developer the opportunity to reduce their lot sizes from 7,500 square feet (currently required) to 4,000 square feet, (2) require a minimum 75 foot vegetated buffer on outlying roads to screen the development, and (3) require the signature and seal of a Landscape Architect licensed under the laws of the State of Delaware.

Mr. Phillips stated that the proposed changes only apply to developments in developing areas and growth and development zones, not in the low density areas of the countryside.

Mr. Cole stated that the proposed changes would negatively affect the Coastal Sussex area; that it would include the countryside in Coastal Sussex; that it would add additional density to Coastal Sussex; and that the lots would be out of character with the area. Mr. Cole also stated that he disagrees with rezoning property for revenue purposes.

Mr. Phillips stated that the draft is for discussion and review only. He noted that another draft ordinance is being prepared by Mr. Robertson to address the concept of requiring developers to pay for increased density above a base zoning and that it would address conditional uses, multi-

family, change of zones, etc. as they relate to increased density fees. He noted that this would create a revenue stream that would permanently preserve thousands of acres in Sussex County.

Mr. Rogers stated that a clear definition of the term “open space” is needed and he suggested that, prior to pursuing this proposal, the Council should wait for an *Open Space* definition from the County’s Land Use Consultant.

Draft

**Ordinance
(continued)**

Mr. Griffin stated that there has also been confusion in the past about the definition and criteria of “superior design” (compared to a standard subdivision).

Mr. Dukes stated that he would like to see a definition of *Open Space* before the Council moves forward with this proposal. He also stated that he is unsure how the word “superior design” could be defined in the Land Use Plan – that it would be a judgment call by the entire Council.

Airport

**Fixed
Base
Operator
Lease**

Mr. Baker presented a proposal for the sale of Georgetown Air Services, LLC. He informed the Council that a request has been received from John Kenney of Georgetown Air Services to approve the assignment of his leases to Garrett Dernoga, owner of Delmarva Aviation, Inc., a flight school based at the Sussex County Airport. Mr. Baker summarized the five leases currently held by John Kenney and Georgetown Air Services:

- Fixed Base Operator (FBO) Lease – Authorizes Georgetown Air Services to sell fuel, provide tie-down services and operate the County Airport. The Lease has various options which expire in 2023.
- Lease for space at the new Terminal Building used for a Manager’s Office and FBO space which expires July 30, 2007.
- Lease for the Sussex Aero Maintenance Facility which is used for maintenance of airplanes. The Lease expires with options on November 30, 2020.
- Leases for two T-Hangar Units which expire January 31, 2008.

Mr. Baker advised that Mr. Dernoga proposes to purchase Georgetown Air Services on approximately April 18, 2007 and that he will review the leases and possibly renegotiate some of the terms of those leases.

Garrett Dernoga advised the Council that he and John Kenney have reached an agreement for the sale of Georgetown Air Services, LLC. He stated that he has been managing Mr. Kenney’s business for the past six months, in anticipation of this transaction. He advised that he does not propose any major changes in the operations at the Airport and that he plans to retain the current staff. Mr. Dernoga also stated that he plans to enhance customer service, to make safety improvements, to make improvements to the fuel farm, and to enroll FBO staff in *Safety First*, a national program.

Mr. Dernoga suggested that one Master Lease replace the five separate leases.

Mr. Cole stated that he believes the Council should have the opportunity to review the proposed Lease, once the terms have been established and the Lease is written.

Lease
(continued)

Mr. Baker advised that he would present a recommendation to the Council on April 17, 2007.

Adminis-
trator's
Report

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

1. 911 Awareness Day

On May 2, 2007, from 9:00 a.m. to 3:00 p.m. at the Sussex County Emergency Operations Center, 911 Awareness Day will be celebrated. As per the attached letter, the program will include safety booths regarding fire, medical, highway safety, electric hazards, and law enforcement displays. As noted, the focus is on 911 emergency response, including a tour of the 911 Center, and the emphasis is especially on providing training for our youth.

2. Easter Holiday

The next regularly scheduled County Council meeting will be held on Tuesday, April 17, 2007, at 6:30 p.m. Due to the Easter holiday, the County Council will not meet on April 10. County offices will be closed on Good Friday, April 6, 2007.

3. John Hastings – Former Planning and Zoning Commissioner

We regret to announce the death of Mr. John Hastings who served on the Planning and Zoning Commission from December 18, 1997, to June 30, 2000. We wish to express our sympathies to Mr. Hastings' family for their unfortunate loss.

Group
Hospital
Insurance
Recommen-
dation

Susan Webb, Finance Director, reviewed the County's Group Hospital Insurance and made a recommendation as to the Group Hospital Insurance renewal. She advised that, currently, the County's Plan is self-funded up to \$200,000 and reinsurance is purchased for catastrophic claims over \$200,000 per year, per individual. Mrs. Webb reported that the Plan Administrator, Integra, requested quotes from a number of companies. Most quotes were not competitive and some companies did not quote due to concerns for several severe ongoing health conditions. Mrs. Webb reported that although Pan American was the only company that qualified for a comparison; the relatively small premium savings offered was not great enough to recommend a change to a new carrier. For this reason, Integra

and Mrs. Webb are recommending that the County renew its Health Care Policy with Zurich Life Insurance Company. Mrs. Webb stated that no changes are proposed to employee benefits or contributions to the Plan for Fiscal Year 2008; however, an overall 12 percent rate increase is anticipated.

Mrs. Webb presented several savings ideas for the upcoming budget year:

**Group
Hospital
Insurance
Recommendation
(continued)**

- Increase the deductible to \$250,000 from \$200,000 which would reduce insurance costs (an approximate savings of \$111,000).
- Begin using iNetico to manage group hospital benefits through group education and disease management which would focus on improving the health of County employees and their dependents (a voluntary program). This savings is estimated to be approximately \$485,000.
- Integra has negotiated a new contract with Pharmacare which will reduce the overall cost of prescription drugs by 1 percent and they want to carve out the retirees over 65 from coverage and fully self-insuring, as they have Medicare as a secondary insurance.

Dennis Cordrey, Personnel Director, and David Smith of Integra Administrative Group, the County's Plan Administrator, were present to discuss the proposal with the Council. A lengthy discussion ensued regarding the proposal.

**M 214 07
Authorizations
for the
Employee
Health
Plan**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council authorizes the following for the Employee Health Plan for the Plan Year May 1, 2007 to April 30, 2008:

- The continuance of Integra Administrative Group as the County's Group Hospital Administrator.
- The approval of Zurich Life Insurance Company as the provider of Group Hospital Reinsurance and Pharmacare as the Prescription Card Provider.
- The approval of the Group Hospital Reinsurance deductible at \$250,000 and aggregate specific deductible of \$100,000.
- Maintenance of the County Group Hospital Program at current benefit levels.
- To use the services of iNetico for health management.

Motion Adopted: 5 Yea.

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

**Bid
Results/
Sewer
Line**

Julie Cooper, Project Engineer, reported on the bid results for Sussex County Project No. 06-08, Sewer Line Renovation, Phase IV, as follows:

Renovation

Allstate Power Vac	\$289,795.00
Reynolds Inliner, LLC	\$299,485.00
Insituform Technologies	\$307,953.00
New Hope Pipe Liners	\$377,777.77
Spiniello Companies	\$443,200.00
Tri State Grouting	\$528,650.00
AM-Liner East, Inc.	\$610,731.00

Bid

**Results/
Sewer**

Line

Renovation

(continued)

Ms. Cooper advised that the Engineer's estimate was \$329,100.00.

M 215 07

**Award Bid/
Sussex
County
Sewer
Line
Renovation**

A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 06-08, Sewer Line Renovation – Phase IV, be awarded to Allstate Power Vac, Inc. of Rahway, New Jersey, at a cost of \$289,795.00.

Motion Adopted: 5 Yea.

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

**Runway
10-28**

Jim Hickin, Director of Airport and Industrial Park Operations, recommended that Substantial Completion be granted for the Runway 10-28 Reconstruction Project, Phase 1 construction.

M 216 07

**Grant
Substantial
Comple-
tion/
Reconstruct
Runway
10-28,
Phase I**

A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Engineering Consultants, Delta Airport Consultants, Inc., and the County Engineering Department, that Sussex County Council grant Substantial Completion, effective March 28, 2007 to Dixie Construction Co., for Sussex County Project No. 05-02, Reconstruct Runway 10-28, Phase I Construction, and any held retainage be released at the direction of the County Engineer.

Motion Adopted: 5 Yea.

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

M 217 06

**Go Into
Executive**

At 12:00 noon, a Motion was made by Mr. Cole, seconded by Mr. Phillips, to go into Executive Session for the purpose of discussing pending or

Session **potential litigation.**

Motion Adopted: **5 Yea.**

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

**Executive
Session**

At 12:01 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 or potential litigation. The Executive Session concluded at 12:10 p.m.

**M 218 07
Reconvene
Regular
Session**

At 12:11 p.m., a Motion was made by Mr. Jones, seconded by Mr. Phillips, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: **5 Yea.**

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

**Appeal/
Lacrosse
Homes of
Delaware/
Hayfield
Subdivision**

The Council considered an appeal of the Sussex County Planning & Zoning Commission's decision to deny Subdivision Application No. 2005-12, an application of Lacrosse Homes of Delaware, Inc., for the subdivision of land in an AR-1 Agricultural Residential District in Cedar Creek Hundred, Sussex County, by dividing 175.07 acres into 350 lots (cluster development), located at the northeast corner of the intersection of Road 227 and Road 229B and east of Road 229 (the Hayfield subdivision).

On March 9, 2006, the Sussex County Planning and Zoning Commission denied the subdivision application. That decision was appealed to the Council as permitted under the County's subdivision ordinance.

The County Council held a Public Hearing on this Appeal on September 19, 2006 at which time they deferred action. On that date, Proposed Conditions and Findings of Fact were submitted by James Fuqua, the Applicant's Attorney.

**(Motion
Died)**

A Motion was made by Mr. Cole that the Director of Planning and Zoning be instructed to develop proposed conditions of approval for the Council's consideration. The Motion died for the lack of a Second.

Mr. Griffin stated the reasons why this matter was placed on the Agenda for Executive Session. He stated that, at the conclusion of the Public Hearing on the Appeal on September 19, 2007, the statement was made that, before this matter is placed back on the Agenda, there should be an Executive Session so that the Council could seek the advice of legal counsel

concerning this item of potential or pending litigation.

At the request of the Council, Lawrence Lank, Director of Planning and Zoning, read into the record the Proposed Conditions and Proposed Findings of Fact which were submitted by the Applicant's Attorney.

M 219 07

Defer

Action

M 219 07

Defer

Action on

Appeal

(continued)

(Motion

Denied)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on the appeal of the Sussex County Planning & Zoning Commission's decision to deny Subdivision Application No. 2005-12, an application of Lacrosse Homes of Delaware, Inc. to allow time for staff to develop conditions of approval for the Council's consideration.

Motion Denied: 3 Nay, 2 Yea.

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

M 220 07

Grant

Preliminary

Approval/

Lacrosse

Homes of

Delaware/

Hayfield

Subdivision

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to grant Preliminary Approval to Lacrosse Homes of Delaware, Inc. for Subdivision No. 2005-12 (Hayfield) based upon the public record created before the Sussex County Council and the Planning and Zoning Commission and based on the following conditions and findings:

Conditions

1. The maximum number of single family lots shall not exceed 350.
2. Residential building permits shall not exceed 100 per year.
3. Final Site Plan review by the Planning and Zoning Commission shall be required for each phase of the development. Each phase's Final Site Plan shall show all forested areas and shall include a landscape plan.
4. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Street design shall include sidewalks on both sides of the streets, curbing, and street lighting and shall be shown on the Final Site Plan.
5. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT within the time period required by DelDOT.
6. The core recreation area consisting of the clubhouse, swimming pool, basketball court, playing field, and tot lot shall be constructed and open to use by residents in accordance with the following schedule:
(a) tot lot, basketball court, and playing field – by issuance of the 150th Certificate of Occupancy and (b) pool and clubhouse – by issuance of the 250th Certificate of Occupancy.
7. The subdivision shall be served by a State regulated on-site central sewer system as defined by the Sussex County Zoning Ordinance, designed and constructed in accordance with the Sussex County

M 220 07
Grant
Preliminary
Approval/
Lacrosse
Homes of
Delaware/
Hayfield
Subdivision
(continued)

Engineering Department (Ordinance No. 38) specifications and in conformity with all DNREC regulations. The operation of the central sewer system shall be subject to the Delaware Public Service Commission and all applicable State and County regulations.

8. The subdivision shall be served by a publicly regulated central water system providing drinking water and fire protection as may be required by applicable State regulations then in effect.
9. Storm water management and erosion and sediment control shall be constructed in accordance with all applicable State and County requirements. The applicant, its successors and assigns shall operate the storm water management facilities utilizing Best Management Practices to provide positive groundwater recharge.
10. Wetlands shall not be included within individual lots. Wetlands shall be maintained as non-disturbance areas, except where authorized by Federal and State permits.
11. The Applicant shall cause to be formed a Master Homeowners Association to be responsible for the perpetual maintenance, repair and replacement of all buffers, storm water management facilities, recreational facilities and other common areas. Prior to the Commission's approval of the site plan for the first phase, the Developer will submit for review and approval by the Planning and Zoning Commission and the County Attorney, the covenants, conditions and restrictions each lot is to be sold subject to.
12. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
13. The Applicant will provide agricultural buffers in accordance with all applicable State and County requirements.
14. The Applicant shall include the Agricultural Use Protection Notice specifically referencing the nearby and adjacent Agricultural Preservation Districts, within the Restrictive Covenants.
15. Bus stop areas shall be located as necessary for the project. The location of these bus stop areas shall be shown on the Final Site Plan for each phase and the Developer shall provide proof that the school district's transportation manager has approved the bus stop locations.
16. Site plan review for each phase of development shall be reviewed and approved by the Planning and Zoning Commission.
17. No site preparation, site disturbance, back excavation or other construction shall be commenced until all permits required by other laws, ordinances, rules and regulations shall have been issued and the approved Final Site Plan is recorded.
18. The Developer shall submit a revised Preliminary Site Plan containing such changes as required to comply with all of the conditions placed upon the approval by the County Council. The Planning and Zoning Commission shall review and approve the revised Preliminary Site Plan.

Findings

**M 220 07
Grant
Preliminary
Approval/
Lacrosse
Homes of
Delaware/
Hayfield
Subdivision
(continued)**

- 1. With the conditions imposed with this approval, the development will be designed in accordance with both the Subdivision Ordinance and the cluster development option.**
- 2. The cluster design, as modified by the Developer and with the conditions imposed, is superior to a standard subdivision with approximately 40 percent of the project remaining as open space, including recreation areas, wetland and forest conservation, and landscaped buffers. Under the cluster design, many of the lots will back up to open space and the cluster design will allow the developer to maintain 65 percent of the pre-development forested areas.**
- 3. The development is consistent with the trend of single family residential development in the area. Other residential developments are located at Jefferson's Crossroads and west and east of the site, such as Windancer, Prestwick, Sandstone, Isaac's Glen, Hummingbird Meadows, and Captain's Way, which are also in the Level 4 area on the State's Policies and Spending Map.**
- 4. The development will comply with all agricultural use requirements required by law including buffers, setbacks, and the agricultural use deed restriction.**
- 5. The developer has taken steps to protect adjacent agricultural uses by providing a 30 foot landscaped buffer along the perimeter of the site.**
- 6. The development will be served by central water and sewer systems operated by a publicly regulated utility.**
- 7. The development's location provides efficient access to Route 1 and Route 16 which are major roadways as well as access to shopping areas in Milton. All entrance and off-site roadway improvements required by DelDOT will be the developer's responsibility.**
- 8. The developer will be responsible for construction of all water and sewer utility systems and sewer utilities will be designed and constructed to comply with County and DNREC standards.**
- 9. The development is consistent with the uses permitted in the low density area of the 2002 Sussex County Land Use Plan Update as certified by the State of Delaware and the purpose of the AR-1 Zoning District, which permits single family residential development.**
- 10. The seventeen (17) items listed in Chapter 99-9C of the Sussex County Code (the Subdivision Ordinance) have been favorably addressed in that:**
 - a. The cluster subdivision will be integrated into the existing terrain and surrounding landscape with the maintenance of large areas of open space, trees and buffer areas.**
 - b. There will be no use of or impact on wetlands, as no lots will contain any wetlands or be located within flood plains and buffers are provided from wetlands.**
 - c. Existing natural features will be largely preserved through the use of buffers and open space. According to the State, there are no significant historical or natural features on the site.**
 - d. The cluster design option will allow the preservation of a**

**M 220 07
Grant
Preliminary
Approval/
Lacrosse
Homes of
Delaware/
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Subdivision
(continued)**

- significant amount of open space and conservation areas.
- e. The developer will provide assurances that tree, vegetation and soil removal will be minimal and enhanced through additional landscape features.
 - f. Potentially objectionable features such as homes adjacent to public roads will be minimized as they will be screened from neighboring property and roadways by a 30 foot landscaped buffer.
 - g. The subdivision will be served by private central water and sewer designed and constructed to County and DNREC standards and requirements.
 - h. Through the establishment of an extensive storm water management plan, erosion and sedimentation and pollution of surface and groundwater will be minimized on the site. In addition, water accumulation on the north side of Smith Road will be alleviated by onsite improvements.
 - i. The applicant will provide for safe vehicular and pedestrian movement within the site and onto connecting public roads in accordance with DelDOT recommendations.
 - j. The area property values will not be decreased and may be increased by the development of the project.
 - k. The project will have a positive effect on the schools by generating economic benefits in the form of property taxes for the school district where the project is located. At the same time, the expected demographic of the purchasers within the project is not expected to create a burden from the number of pupils projected to attend the local school district.
 - l. The Developer's Traffic Impact Study indicates that there will not be an adverse effect on area roadways and public transportation and all required upgrades to the area roadways will be provided at the developer's expense in accordance with DelDOT's requirements.
 - m. The project will be compatible with other area land uses, including existing residential developments in the general vicinity. In addition, the project has been designed to minimize any adverse impacts on properties that are directly adjacent to it.
 - n. Surface and storm water will be contained and treated on site through the project's extensive storm water management plan.
11. The development will provide extensive active and passive recreational uses, including a swimming pool, playing field, basketball court, and a community center.
12. The development is designed to minimize environmental impacts. In addition to central water and sewer systems, storm water management facilities will be designed and operated in accordance with all County Ordinances and DNREC regulations and will utilize Best Management Practices. Significant buffers will be provided

**M 220 07
Grant
Preliminary
Approval/
Lacrosse
Homes of
Delaware/
Hayfield
Subdivision
(continued)**

from all wetland areas, no wetland areas are located within lot lines, and extensive areas of existing woodlands will be preserved.

13. The development will be under the control of a Homeowners Association for enforcement of restrictions and maintenance of common areas.
14. While the State's comment concerning the Level 4 area designation has been considered, it is overcome by the fact that this project complies with the County Land Use Plan Update that was reviewed and approved by the State and will comply with all County ordinances.
15. The project, with the stipulations and conditions placed upon it, will not adversely impact the County, the neighborhood, or adjacent properties.
16. In approving the Preliminary Cluster Subdivision Plan, the Council is aware of and responds to the concerns which earlier motivated the Commission to deny preliminary approval, as follows:
 - a. Although the site is not within a designated Development District, it is zoned AR-1 where a low density single family residential subdivision with a cluster option is a permitted use.
 - b. Although the site is in an Investment Level 4 Area according to the Strategies for State Policies and Spending, where the State does not plan to provide infrastructure funding or additional public services, that State policy should not be used as a basis for denial if the project otherwise complies with the County Subdivision Ordinance in effect at the time the application was considered by the Planning and Zoning Commission.
 - c. Although approval will result in increased traffic on area roadways, the on and off site roadway improvements that will be funded by the Developer, as approved by DelDOT, will accommodate all of those concerns.
 - d. Although some neighboring properties have been placed in agricultural preservation, the approval of this subdivision will not prevent those neighboring properties from continuing in agricultural preservation and will not prevent the owners of other neighboring properties from placing their properties in agricultural preservation.

Motion Adopted: 3 Yea, 2 Nay.

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

Requests

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

**M 221 07
Community
Improve-**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$2,000.00 from Mr. Rogers' Community Improvement Grant Account to

**ment
Grant**

the Friends of the Milton Public Library to purchase computer equipment.

Motion Adopted: 5 Yea.

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

**M 222 07
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$1,250.00 (\$625.00 each from Mr. Cole's and Mr. Phillips' Councilmanic Grant Accounts) to the OM Boosters, Indian River School District, for the Odyssey of the Mind Teams' travel expenses to the World Finals.

Motion Adopted: 5 Yea.

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

**M 223 07
Council-
manic
Grant**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Rogers' and Mr. Cole's Councilmanic Grant Accounts) to Cape Henlopen Odyssey of the Mind to help fund the team's trip to the World Finals.

Motion Adopted: 5 Yea.

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

**M 224 07
Council-
manic
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$350.00 (\$250.00 from Mr. Dukes' Councilmanic Grant Account and \$100.00 from Mr. Phillips' Councilmanic Grant Account) to North Laurel Elementary School to help fund the Sport Stacking Team's trip to the World Championships.

Motion Adopted: 5 Yea.

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

Mr. Cole left the room.

**M 225 07
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$250.00 from Mr. Cole's Councilmanic Grant Account to the Delaware Envirothon for operating and travel expenses.

Motion Adopted: 4 Yea, 1 Absent.

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

**Additional
Business**

Under *Additional Business*, Dan Kramer stated that the Route 113 Bypass should be located on the west side.

**M 226 07
Adjourn**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to adjourn at 1:00 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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