



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 8, 2007

**Call to
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 8, 2007 at 6:30 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	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

(Mr. Jones was absent.)

**M 283 07
Approve
Agenda**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to amend the Agenda by deleting “ Executive Session – Land Acquisition” and by deleting the Grant Request from “Greenwood Mennonite School” and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 284 07
Approve
Minutes**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to approve the minutes of April 17, 2007.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Corre-
spondence**

Mr. Griffin read the following correspondence:

BURTON MESSICK, CHAIRMAN, SOURCE WATER PROTECTION COMMITTEE, LAUREL, DELAWARE.

RE: Letter notifying the Council that the Source Water Protection Committee approved the final draft of the Source Water Protection Ordinance on April 24, 2007 and that a public meeting on the draft Ordinance is tentatively scheduled for May 30th.

**Administrator's
Report**

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

1. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities

The Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities will meet on May 21, 2007, at 10:00 a.m. at the Sussex County West Complex. Attached is a copy of the agenda for the meeting, including reports from First State Community Action regarding senior programs.

2. Angola Sewer – Public Hearing

On Saturday, May 5, 2007, a Public Hearing was held regarding the proposed Angola Neck Sanitary Sewer District boundaries at the Millsboro Fire Hall. About 219 people were in attendance for the meeting. The Sussex County Engineering Department will continue to receive public comments regarding the boundaries through May 18, 2007 at 4:30 p.m.

3. Families in Crisis Conference Award

On May 4, 2007, the County Council was awarded the Ray Lloyd Memorial Award for 2007 in recognition and appreciation of continued support of the Families in Crisis Conference for nearly three decades. This conference has been held at Delaware Technical & Community College to provide information and assistance to human service agencies. The County Council is the first recipient of this annual award in memory of Mr. Ray Lloyd who taught at Delaware Technical & Community College.

4. Sussex County 30th Annual Prayer Breakfast – June 25, 2007

The 30th Annual Sussex County Prayer Breakfast will be held June 25, 2007, at the CHEER Community Center on Sand Hill Road in Georgetown. Breakfast will begin at 7:00 a.m., with a program start at 7:45 a.m. Ms. Susie Luchsinger will be the special guest for the program. Please contact Robin Griffith in the County Council Office at 855-7743 for ticket or sponsorship information. Please RSVP by June 15, 2007.

5. 9-1-1 Awareness Day

On May 2, 2007, the 7th Annual 9-1-1 Awareness Day was held at the Sussex County Emergency Operations Center. Approximately 1,100 fifth- graders representing 12 schools were on hand. The Delaware State Police, Christiana Lifenet, Georgetown Fire Company, Delaware State Fire School, DNREC, Bridgeville Fire Company, Delaware Emergency Management, Sussex County

**Adminis-
trator's
Report
(continued)**

Paramedics and Mapping and Addressing, and Sussex County 9-1-1 dispatchers presented displays and information.

We would like to thank the many County staff and volunteers who assisted with this program. Emergency Operations staff including 9-1-1 dispatchers Debbie Jones, Richard Short, Carol Cathell, and Joseph Thomas deserve our thanks.

6. County Government Day – May 10, 2007

Representatives from Sussex County Boys State and Girls State will be on hand on May 10, 2007, for County Government Day. Attached is a copy of the agenda. The meeting starts at 9:30 a.m. in the County Council Chambers. This program helps high school juniors learn and understand more about County government.

**DelDOT
Update**

Carolann Wicks, Secretary of Transportation, Delaware Department of Transportation (DelDOT) gave a presentation on Delaware's Transportation Infrastructure.

Secretary Wicks reported that DelDOT's current financial situation (a \$1.5 billion shortfall for the 6 Year Capital Transportation Program FY2008-FY2013) has required a serious review of the Transportation Trust Fund revenues. Secretary Wicks advised that DelDOT is responsible for approximately 90 percent of all highways and bridges; DelDOT is responsible for 89 percent of all roadways as compared to other State DOTs at 20 percent. Secretary Wicks reviewed what is being proposed, what their current challenges are and the list of projects that they are committed to moving forward with, providing funding is available.

The Secretary reported that their steady source of revenues (mainly tolls, gas tax, DMV fees) have not been able to keep up with the cost of doing business and the tremendous growth the State has experienced. She stated that this is why DelDOT is asking the General Assembly to approve a variety of new revenue sources to support much-needed transportation projects, services and initiatives. Secretary Wicks stated that, without new revenues to help fund their 6-year work program, many project will remain unfunded and their core business would see a reduction in the ability to provide essential services, meaning (1) a limited ability to replace DART and Paratransit buses, (2) a limited ability to replace heavy equipment, (3) a further reduction in paving projects, and (4) a limited ability to respond to safety concerns.

Secretary Wicks acknowledged that all will not be accepting of the proposed fee increases, but the Department believes this is the best option at this time. The proposed increases will bring in almost \$1 billion in additional revenue over six years, which will allow DelDOT to continue with the projects and service needs as previously committed.

**Sussex
County
Land
Trust/
Agri-
cultural
Lands
Preser-
vation
Program
Recommen-
dation**

Mr. Baker reported that he met with Wendy Baker, President and CEO of the Sussex County Land Trust, and Milton Melendez, Delaware Agriculture Preservation Program, to review applications for inclusion in the farmland preservation program. He reported that, this year, 25 applications were submitted; the Sussex County Land Trust Board of Directors has recommended the purchase of agricultural preservation easements on two different farms. Mr. Baker noted that he and Susan Webb are in agreement with the Board's recommendation.

Mr. Baker reported that, over the last four years, in a cooperative effort with the State and the Sussex County Land Trust, the County has funded the purchase of development rights for 2,246 acres. The County has expended \$1,550,000 for easements to preserve farmland in Sussex County for the preservation of open space and the protection of agriculture.

Wendy Baker, President and CEO of the Sussex County Land Trust, discussed land acquisition recommendations for Round 12 of the Delaware Department of Agriculture, Aglands Foundation easements. She noted that the Sussex County Land Trust Board of Directors reviewed the farms participating in this Round. They took into account the farms' geographic location, reviewed their selection criteria and applying their Grand Preservation Loop initiative. This initiative aims to connect the many large protected holdings already in place with a wildlife corridor no less than 1,000 feet wide. Ms. Baker stated that two of the properties (Parcels Nos. 7 and 11) are located west of Route 113, are contiguous to or very near other protected lands, are located within the Nanticoke Water Shed, and are adjacent to State Holdings at State Pond Park.

Mrs. Baker asked the Council to approve the recommendation of the Sussex County Land Trust Board of Directors and to approve the use of County-pledged funds in an amount not to exceed \$105,075.00.

Mr. Baker advised the Council that the County has budgeted \$300,000 for this program; approximately \$154,000 remains in the Fiscal 2007 Budget for Open Space, which could be used for this proposed purchase. Mr. Baker noted that the maximum amount the County would expend for these properties is \$405,705.00.

Mr. Baker reported that the two farms total 214 acres; the approximate total cost is \$1,075,087. Funding for the purchase is proposed as follows:

County – FY 07 Farmland Preservation Grant	\$ 300,000
County – FY 07 Open Space Grant	105,075
State of Delaware (match)	405,705
Federal	<u>263,677</u>
Total	<u>\$1,075,087</u>

M 285 07
Award
Funding
to Delaware
Agricultural
Lands
Preserva-
tion Founda-
tion

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Council awards up to \$405,705.00 from the Sussex County Council to the Delaware Agricultural Lands Preservation Foundation to be matched on a one-to-one funding basis by the State of Delaware for up to \$405,705.00 and by a minimum of \$263,677.00 in Federal funds for farmland preservation easements for two farms totaling approximately 214 acres and; Be It Further Moved that the properties are selected based on the recommendation of the Sussex County Land Trust and are contingent on the availability of Federal, State and County funds.

Motion Adopted: 4 Yeas, 1 Absent.

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

Legislative
Update

Mr. Godwin provided the following legislative update:

- House Bill No. 30 which prohibits treated wastewater spray on State-owned land.

The legislators have been made aware that the Council opposes this Bill and that, if they should take action on it, there are three amendments attached to it.

The Bill is out of Committee and on the Ready List.

- House Bill No. 42 which would increase the members on the Sussex County from 5 to 7.

The Bill is out of Committee and on the Ready List.

Mr. Godwin stated that he has not discussed this Bill with the legislators since there is not consensus of the Council in support of or in opposition to the legislation.

Mr. Cole stated that he supports the legislation, as written.

Mr. Phillips stated that he supports the legislation, as written.

Mr. Rogers stated that he would like supporting information...

- House Bill No. 111 which would prevent the County from collecting Realty Transfer Tax on conveyances occurring with an Investment Level 4 area.

Mr. Godwin reported that Representative Bruce Ennis has stated that he is going to “scrap” House Bill No. 111 and write new legislation. House Bill No. 111 is not on a Ready List not is it on any

**Legislative
Update
(continued)**

Agenda; however, as of this date, House Bill No. 111 is still alive.

- **House Bill No. 118** which empowers the County to impose a 2 1/4 percent impact fee on building permits.

This legislation will be discussed on May 9th by the House and Community Affairs Committee in Legislative Hall.

- **Senate Bill No. 77** which relates to municipalities and their authority to provide wastewater service outside their corporate boundaries.

This legislation will be discussed in Committee on May 17th.

**Wastewater
Agreement**

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

**M 286 07
Execute
Wastewater
Agreements/
Forest
Landing
Develop-
ment**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 343-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Forest Landing Development between Sussex County Council and Forest Landing Development, LLC, for wastewater facilities to be constructed in Forest Landing (On Site Phase 1B), located in the Miller Creek Sanitary Sewer District.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Old
Business/
C/U
No. 1737**

The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE COMPLEX AND SOME RETAIL SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS" (Conditional Use No. 1737) filed on behalf of Terrance Babbie.

The Planning and Zoning Commission held a Public Hearing on this application on April 12, 2007 at which time they recommended that the application be approved with conditions.

The Sussex County Council held a Public Hearing on May 1, 2007 at which time they deferred action, at the request of Councilman Jones.

Mr. Lank stated that an issue of discussion at the Council's Public Hearing

**Old
Business/
C/U
No. 1737
(continued)**

was the Commission's recommended condition that "The Agricultural Use Protection Notice shall be included on the Final Site Plan". He noted that it was also stated that the Agricultural Use Protection Notice should be included in any lease or sales document and should refer to dust, odor, noise, spray planes, working at night, etc.

**M 287 07
Adopt
Ordinance
No. 1900
(C/U
No. 1737)**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1900 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE COMPLEX AND SOME RETAIL SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS" (Conditional Use No. 1737) filed on behalf of Terrance Babbie, with the following conditions:

1. The offices shall be limited to business and professional offices. The offices may also be used for home-related retail and contractor or home builder showrooms and service businesses and professional uses such as law firms, accountant offices, engineering offices and similar uses.
2. No automobile garages, new or used car lots, auto repair shops, filling stations, fast food or other restaurants, laundromats or funeral homes will be permitted and no other uses than those included in this application will be permitted without a formal modification of the conditional use.
3. The use shall comply with all DelDOT requirements.
4. Dumpsters shall be screened from view from any public roadways.
5. Any security lighting shall be screened so that they do not shine on any neighboring properties or public roadways.
6. One lighted ground sign shall be permitted.
7. The final site plan shall be subject to the review and approval of the Planning and Zoning Commission.
8. The Agricultural Use Protection Notice shall be included on the final site plan and in all unit leases and/or sales documents.

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

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

Requests	Mrs. Webb presented grant requests for the Council's consideration.
M 288 07 Council- manic Grant	<p>A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$100.00 from Mr. Cole's Councilmanic Grant Account to the Oak Orchard – Riverdale American Legion Post 28 Auxiliary for the poppies program.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Absent; Mr. Dukes, Yea</p>
M 289 07 Youth Activity Grant	<p>A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$200.00 (\$100.00 each from Mr. Dukes' and Mr. Phillips' Youth Activity Grant Accounts) to New Zion United Methodist Church for a community basketball and AIDS awareness event.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Absent; Mr. Dukes, Yea</p>
Introduction of Proposed Ordinance	<p>Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (10 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS" (Conditional Use No. 1749) filed on behalf of Robin Erthal and Lynda Lake.</p>
Introduction of Proposed Ordinance	<p>Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR ATHLETIC FIELDS AND RELATED PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.25 ACRES, MORE OR LESS" (Conditional Use No. 1750) filed on behalf of John Gilman, Percy, Inc.</p>
Introduction of Proposed Ordinance	<p>Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR ONE OR TWO BUSINESS OFFICES OR ONE OR TWO RETAIL SHOPS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 26,330 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1751) filed on behalf of Dartmouth Ventures, L.L.C.</p>

Introduction of Proposed Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (16 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 4.1 ACRES, MORE OR LESS” (Conditional Use No. 1752) filed on behalf of Michael Orndorff.**

Introduction of Proposed Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND EQUIPMENT STORAGE FOR A SEPTIC AND MASONRY BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 5.28 ACRES, MORE OR LESS” (Conditional Use No. 1753) filed on behalf of R. T. Absher, Jr., General Contracting, Inc.**

The Proposed Ordinances will be advertised for Public Hearing.

Additional Business **Dan Kramer questioned when the Sussex County Land Trust last met. Mr. Baker responded that they met at 9:00 a.m. on this date. Mr. Kramer questioned the amount of money given to DelDOT by developers and he questioned if and how the money has been used. Mr. Kramer also questioned when the Council is going to stop giving money to churches.**

Public Hearing (C/U No. 1686) **A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.77 ACRES, MORE OR LESS” (Conditional Use No. 1686) filed on behalf of Malone Enterprises, LLC.**

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on April 26, 2007 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 26, 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 distributed a Project Book which was provided by the Applicant.

Mr. Lank reported that additional correspondence has been received since the Public Hearing before the Commission. The letter, from the County

**Public
Hearing
(C/U
No. 1686
(continued)**

Engineering Department, makes reference to portable toilets being placed at Malone's Bayside Marina which are put in place at the beginning of the summer and removed at the end of the boating season; that the Long Neck Sanitary Sewer District serves this parcel; that since public sewer is available it is the opinion of the Sussex County Engineering Department that the placement of the portable toilets is a violation of County Code.

The Council found that the Mario Malone was present with Dennis Schrader, Attorney, and Bob Stronsky of Landmark Engineering. They stated that the project is located on the north side of Long Neck Road; that access to the Rehoboth Bay can be obtained from the marina; that the existing project consists 106 boat slips and 40 mobile homes and 42 campers; that the owner of the property would like to convert the approximately 82 housing units at the existing Malone's Bayside Marina to 41 townhouses and 82 boat slips that results in a reduction of 41 dwelling units and 25 boat slips; that the proposed change of housing requires a conditional use permit; that the units are proposed to be 24 by 50 and multi-story; that it is proposed that the existing boating docks will remain; that the entrances and traffic flow to the property would be modified; that there are currently four entrances to the property; that they are proposing a reduction to two entrances; that the site is located with a flood plain and therefore, there are required elevations for the first floors; that wetlands exist on the site will be preserved and there will be no intrusion in the wetlands; that it is expected that the townhouse units will be raised and two parking spaces will be available beneath each house and one in the driveway; that a common area is proposed at the rear of the units where there will be no vehicular access; that no PLUS review is required since the number of units is less than 50; that central water and sewer are proposed; and that current residents have yearly leases and approximately three tenants live there year-round.

Mr. Cole questioned potential landlord-tenant issues. Mr. Schrader acknowledged that the Applicant will have to resolve issues with tenants of the park. Mr. Schrader stated that they would have to comply with Delaware Code Title 25 Chapter 70 in order to proceed with the project. Mr. Griffin noted that Delaware Law contains 6-month (minimum) notice requirement advising tenants that a lease is being terminated.

Mr. Cole asked the Applicant to submit Proposed Conditions to the County for the Council's consideration in the event it is decided to approve the application.

The Public Hearing is closed.

**M 290 07
Defer
Action
(C/U
No. 1686)**

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to defer action on Conditional Use No. 1686 filed on behalf of Malone Enterprises, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

**M 290 07
(continued)**

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

**Public
Hearing
(C/Z
No. 1611)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 146.68 ACRES, MORE OR LESS” (Change of Zone No. 1611) filed on behalf of B & M Property Development, LLC.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on April 26, 2007 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 26, 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 distributed a Project Book which was provided by the Applicant.

The Council found that Coleman Bunting was present with John Sergovic, Attorney, Jerry Friedel and Michael Wigley of Davis, Bowen and Friedel, Inc. and Ed Launay of Environmental Resources. They stated that the proposal that went through the PLUS Review was for 240+ units; that there is approximately 146.5 total acres of property, State wetlands represent approximately 86 acres and 404 wetlands represent approximately 15.5 acres; that because of wetlands, market conditions and sensitivity towards the environment, the project has been reduced to 173 townhomes; that, as a result of the Public Hearing before the Planning and Zoning Commission, they are now proposing a total of 172 units(74 townhomes and 98 single family homes); that it has been reduced by one single family dwelling so that wetlands can be removed from all of the lots; that all State wetlands have been taken out of the calculation; that this is not in-fill zoning, but it is completion zoning; that the use is compatible with the area – with Mallard Lakes, Bayville Landing, and Bayville Shores; that the information presented in the Project Book is different than what is being proposed at this Public Hearing; that there have been changes to the site plan that takes wetlands out of all of the single family lots; that they now propose a total of 172 units; that they instituted a series of roadways that helped break down the project into various neighborhoods for the purpose of phasing the project; that they are proposing a combination of public roads (single family lots access) and private roads (accessed by multi-family structures);

**Public
Hearing
(C/Z
No. 1611)
(continued)**

that the average lot size is 10,700 square feet; that each single family lot would have two off-street parking spaces and one garage parking space; that in the multi-family component, there will also be three parking spaces per unit, one of which would be in a garage; that they plan to retain 80 percent of the existing woodlands; that they propose to use Best Management Practices with all soil disturbances; that the project is located within the Fenwick Island Sanitary Sewer District and that according to the County Engineering Department, there is adequate capacity to serve this project at 4 units per acre; that the Engineering Department has recommended a limitation of 60 units per year in the construction mode; and that they propose a comprehensive amenity package.

Mr. Sergovic pointed out that Proposed Findings of Fact and Proposed Conditions were included in the Exhibit Booklet.

Mr. Wigley distributed copies of the revised site plan.

Mr. Cole questioned why a 100 foot buffer is not proposed in accordance with PLUS Review comments. Mr. Sergovic responded that they plan to comply with the County's requirement for a 50 foot buffer.

In response to concerns raised by Mr. Cole, Mr. Sergovic stated that they would agree to a condition restricting the clear-cutting of trees in Federal wetlands. He noted; however, that the Applicant would like to be able to remove dead trees, only.

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

**M 291 07
Defer
Action on
C/Z
No. 1611**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Change of Zone No. 1611 filed on behalf of B & M Property Development, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 292 07
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to adjourn at 8:27 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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