



## *Sussex County Council Agendas & Minutes*

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 22, 2007**

**Call to  
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 22, 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 315 07  
Approve  
Agenda**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda by deleting "Approval of Minutes", and to approve the Agenda, as amended.

**Motion Adopted: 5 Yeas.**

**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:

**THE AMERICAN LEGION AUXILIARY UNIT #28, MILLSBORO, DELAWARE.**

**RE: Letter in appreciation of Councilman Cole's \$100.00 donation to the American Legion Auxiliary Memorial Poppy Program.**

**LAUREL HISTORICAL SOCIETY, LAUREL, DELAWARE.**

**RE: Letter in appreciation of the Council's donations for the Governor Carvel auction purchases and the Studley House Restoration Project.**

**M 316 07  
Adopt  
Procla-  
mation**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proclamation entitled "PROCLAIMING THE WEEK OF MAY 20 THROUGH MAY 26, 2007 AS *EMERGENCY MEDICAL SERVICES WEEK*".

**Motion Adopted: 5 Yeas.**

**M 316 07  
(continued)**

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

**Adminis-  
trator's  
Report**

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

**1. Beneficial Acceptance**

The Engineering Department granted Beneficial Acceptance to Refuge Plaza East, Agreement No. 654, on May 14, 2007. The developer is ARC Associates Partnership, and the project is located on Route 54, three miles west of Fenwick Island, in the Fenwick Island Sanitary Sewer District, consisting of 15 commercial buildings. A fact sheet on the project is included with this report.

**2. Memorial Day Holiday**

The next regularly scheduled County Council meeting will be held on Tuesday, June 5, 2007, at 10:00 a.m. Due to the Memorial Day holiday, the County Council will not meet on May 29, 2007. County offices will be closed on Memorial Day, May 28, 2007.

**Bid  
Results**

**Joe Thomas, Director of Emergency Operations, presented the results of three bid proposals, as follows:**

**Siren  
Controls  
and  
Installation  
Project**

**Sussex County Project # EOC 2007-01 – Siren Controls and Installation**

This project is to supply and install siren controllers to all the volunteer fire companies in Sussex County. It is the County's responsibility to provide the electronic equipment in order to activate the sirens throughout the County.

The current siren controllers are over 20 years old and in some cases, malfunctions are common; also, the current controllers are obsolete and getting repair parts is difficult.

Funding for the project is in place through Appropriated Reserves in Fiscal 2007.

Three bid proposals were received, as follows:

<b>Delmarva Communications</b>	<b>\$ 59,327.00</b>
<b>Teltronics, Inc.</b>	<b>\$ 90,905.38</b>
<b>Anaconda Protective Concepts, Inc.</b>	<b>\$ 84,900.00</b>

It is the recommendation of the Sussex County Emergency Operations Center to accept the low bid of Delmarva Communications in the amount of \$59,327.00.

**M 317 07**  
**Award**  
**Bid/**  
**Siren**  
**Controls**  
**and**  
**Installation**  
**Project**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, that the Sussex County Council accepts the low bid submitted by Delmarva Communications in the amount of \$59,327.00 for Sussex County Project No. EOC-2007-01, Siren Controls and Installation.

**Motion Adopted:** 5 Yeas.

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

**Bid**  
**Results/**  
**EOC**  
**Furniture**

Sussex County Project No. EOC 2007-02 – Emergency Operations Center Furniture

This project is for the purchase of 22 dispatch consoles, EOC workstations and a 12-seat conference table at the new Emergency Operations Center.

Three bid proposals were received, both of which have been reviewed by the County Attorney. One bid proposal did not meet the bid requirements due to incompleteness with no bid bond.

The remaining two proposals received are as follows.

Xybix Systems, Inc. \$ 298,592.00

Watson Dispatch, Inc. \$ 298,025.58 (Option 1)  
\$ 248,572.83 (Option 2)

The two remaining bids were well over the projected budget for the project.

It is the recommendation of the Sussex County Emergency Operations Center to reject the bids and to rebid the project at a later date.

**M 318 07**  
**Reject**  
**Bids/**  
**EOC**  
**Furniture**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to reject the bid proposals for Sussex County Project No. EOC 2007-02, Emergency Operations Center Furniture, and to rebid the project at a later date.

**Motion Adopted:** 5 Yeas.

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

**Bid**  
**Results/**  
**EOC**  
**Chairs**

Sussex County Project No. EOC 2007-03 – Emergency Operations Center Chairs

This project is for the purchase of chairs for all positions in the Dispatch Center and EOC at the new Emergency Operations Center.

<b>Bid Results/EOC Chairs (continued)</b>	<p>Two bid proposals were received, both of which have been reviewed by the County Attorney and did not meet the bid requirement due to incompleteness with no bid bond.</p> <p>It is the recommendation of the Sussex County Emergency Operations Center to reject the bids and obtain quotes at a later date.</p>
<b>M 319 07 Reject Bids/EOC Chairs</b>	<p>A Motion was made by Mr. Rogers, seconded by Mr. Jones, to reject the bid proposals for Sussex County Project No. EOC 2007-03, Emergency Operations Center Chairs.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
<b>Old Business/C/Z No. 1605</b>	<p>The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO A MR-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.</p> <p>The Planning and Zoning Commission held a Public Hearing on this application on February 8, 2007 at which time they recommended that the application be deferred; on March 15, 2007, the Commission recommended that the application be approved with conditions.</p> <p>The Sussex County Council held a Public Hearing on this application on February 22, 2007 at which time they deferred action.</p> <p>The Council reviewed and discussed possible changes to the conditions recommended by the Commission.</p> <p>Mr. Cole suggested that Condition No. 5 which states that “The development shall be served as part of the appropriate Sussex County Oak Orchard Sanitary Sewer District in accordance with the Sussex County Engineering Department specifications and regulations.” be changed to “The development shall be served as part of the appropriate Sussex County Oak Orchard Sanitary Sewer District in accordance with the Sussex County Engineering Department specifications, <u>recommendations</u> and regulations.”</p> <p>Mr. Cole suggested that Condition No. 11 which states that “Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday</p>

**Old  
Business/  
C/Z  
No. 1605  
(continued)**

through Saturday and only between the hours of 7:00 a.m. and 6:00 p.m.” be changed to “Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday and only between the hours of 7:00 a.m. and 6:00 p.m.”

Mr. Cole referred to the six acre grove of trees located near the center of the project and he expressed concern that the location of the pool and clubhouse would require the removal of the trees. Mr. Cole stated that the Applicant should be required to redesign the project to save and protect the trees and to place the amenities elsewhere.

It was noted that, according to the site plan, 3.2 acres of the 6.6 acres of woodlands is proposed to be removed.

Mr. Griffin suggested that Condition No. 10 which states that “The applicant shall submit as part of the site plan review, a landscape plan showing the proposed tree and shrub landscape design.” be amended by adding the following sentence: “The existing forested area shall be preserved.”

Mr. Phillips expressed concern that there may be factors that the Council is unaware of and that this matter should be left to the discretion of the Planning and Zoning Commission during the Site Plan Review process.

**M 320 07  
Motion  
Died**

A Motion was made by Mr. Phillips to direct the Planning and Zoning Commission, during the Site Plan Review process, to attempt to keep the amenities out of the forested area. The Motion died for the lack of a Second.

**M 321 07  
Approve  
Changes to  
Conditions/  
C/Z  
No. 1605**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to approve the changes to Condition Nos. 5, 10, and 11 to Change of Zone No. 1605, filed on behalf of Nentego Properties, LLC.

**Motion Adopted: 5 Yeas.**

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

**M 322 07  
Adopt  
Ordinance  
No. 1901  
(C/Z  
No. 1605)**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1901 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT TO A MR-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.

**M 322 07  
Adopt  
Ordinance  
No. 1901  
(C/Z  
No. 1605)  
(continued)**

**1605) filed on behalf of Nentego Properties, LLC, with the following conditions:**

- 1. The maximum number of dwelling units shall not exceed 373 townhouse-style units.**
- 2. The construction of this project shall be phased over a six-year period. No more than 125 residential unit building permits shall be issued within any calendar year.**
- 3. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's determinations.**
- 4. Recreational facilities and amenities shall be constructed and open to use by residents of the development within 2 years of the issuance of the first residential building permit. Those amenities shall include a swimming pool and pool house.**
- 5. The development shall be served as part of the appropriate Sussex County Oak Orchard Sanitary Sewer District in accordance with the Sussex County Engineering Department's specifications, recommendations and regulations.**
- 6. The MR/RPC shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 7. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.**
- 8. The applicant, its successors and/or assigns, including a homeowners or condo association that will be formed, shall operate the stormwater management facilities in a manner that is consistent with Best Management Practices.**
- 9. The interior street design shall be in accordance with or exceed Sussex County street design requirements and/or specifications. Street design shall include curbs, sidewalks and street lighting.**
- 10. The applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design. The existing forested area shall be preserved.**
- 11. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday and only between the hours of 7:00 a.m. and 6:00 p.m.**
- 12. The applicant shall form a homeowners or condo association to be responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.**
- 13. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.**
- 14. A school bus stop with parking shall be provided. The location and character of the school bus stop shall be coordinated with the local school district's transportation coordinator. The location of the school bus stop shall be shown on the Final Site Plan.**
- 15. Agricultural buffers shall be provided as required. The Agricultural**

**M 322 07**  
**Adopt**  
**Ordinance**  
**No. 1901**  
**(C/Z**  
**No. 1605)**  
**(continued)**

Use Notice shall be included in condominium documents or instruments of conveyance.

16. Site plan review by the Planning and Zoning Commission shall be required for the Master Plan and each phase of the proposed development.

17. The RPC shall expire after five years if not substantially underway, as provided by 99-40 E of the Subdivision Ordinance to be similar to a subdivision application.

**Motion Adopted: 5 Yeas.**

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

**Old**  
**Business**  
**(C/Z**  
**No. 1606)**

The Council discussed the Proposed Ordinance entitled “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.

The Planning and Zoning Commission held a Public Hearing on this application on February 8, 2007 at which time they recommended that the application be deferred; on March 15, 2007, the Commission recommended that the application be approved.

The Sussex County Council held a Public Hearing on February 22, 2007 at which time they deferred action.

**M 323 07**  
**Adopt**  
**Ordinance**  
**No. 1902**  
**(C/Z**  
**No. 1606)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1902 entitled “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.

**Motion Adopted: 3 Yeas, 2 Nays.**

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

<b>Old Business</b>	Mr. Dukes advised the Council that he wanted to place several items of “Old Business” on the Council Agenda on June 12th. The Council reviewed the list of pending applications and decided on the applications that would be discussed.
<b>Proposed Annual Operating Budget</b>	<p>Mr. Baker presented the Proposed Annual Operating Budget for Fiscal Year 2008 and the accompanying Budget letter (both of which are available for download and or viewing on the County’s website at <a href="http://www.sussexcountydade.gov">www.sussexcountydade.gov</a>. Assisting Mr. Baker with the budget presentation were Susan Webb, Kathy Roth and Gina Jennings. The theme for the proposed Fiscal Year 2008 Budget is “A Balanced Approach...” Mr. Baker advised that the challenge and goal in developing this Budget has been to maintain and supplement existing County services while facing a major decrease in Realty Transfer Tax revenues. He stated that their goal has been to adjust the Budget to reflect the change in the economy and to continue to provide a strong financial base for the future. Mr. Baker reported that the Proposed Budget contains no increase in the County’s tax rate for the nineteenth consecutive year. Mr. Baker concluded with a PowerPoint presentation that provided an overview of the Proposed Fiscal Year 2008 Budget.</p> <p>Mr. Baker encouraged the County Council to review the Proposed Annual Operating Budget carefully prior to the Public Hearing scheduled for June 19, 2007.</p>
<b>Introduction of Proposed Ordinance</b>	Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2008”. The Proposed Ordinance will be advertised for Public Hearing.
<b>Introduction of Proposed Ordinance</b>	Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”. The Proposed Ordinance will be advertised for Public Hearing.
<b>Representative Short</b>	Mr. Dukes recognized State Representative Danny Short who was present for the Budget Presentation.
<b>Additional Business</b>	Under <i>Additional Business</i> , Daniel Kramer addressed the Council and questioned whether the County’s Proposed Budget contains a surplus. Councilman Jones responded that the Budget contains “Rainy Day” funds.
<b>Additional Business</b>	Under <i>Additional Business</i> , Ken Sharp and Edward Funk of Indian River Senior Center thanked the Council for their past support. He stated that they are seeking the Council’s continued financial support as they are planning to build a new Senior Center in Millsboro in the near future.



**M 324 07  
Adjourn**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 11:55 a.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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