



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 3, 2008

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 3, 2008 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 373 08 Approve Agenda

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to amend the Agenda by deleting “Lease Agreement – Office Space” under David Baker and by deleting “Miller Creek Sanitary Sewer District (\$1,725,000)” under Susan Webb; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Phillips joined the meeting.

M 374 08 Approve Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the minutes of May 6, 2008.

Motion Adopted: 5 Yeas.

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

M 375 08 Approve

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the minutes of May 13, 2008.

Minutes

Motion Adopted: 5 Yeas.

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

**Corre-
spondence**

Mr. Griffin read the following correspondence:

MICHELE BELL, DINNER/AUCTION CHAIRPERSON, NANTICOKE HEALTH SERVICES, SEAFORD, DELAWARE.

RE: Letter in appreciation of Councilman Dukes' donation to the Nanticoke Health Services Dinner and Auction; proceeds from the evening will benefit the Nanticoke Hospital Charity Endowment Prescription Fund and a certified Stroke Center at the hospital.

RON BREEDING, PROGRAM & POLICY ANALYST, NEMOURS HEALTH & PREVENTION SERVICES, SEAFORD, DELAWARE.

RE: Letter in appreciation of Councilman Dukes' grant in the amount of \$100.00 for the community walk program.

ALEKS CASPER, STATE DIRECTOR, MARCH OF DIMES, NEWPORT, DELAWARE.

RE: Letter in appreciation of the Council's grant in support of the 2008 March for Babies.

KAREN L. MCGRATH, EXECUTIVE DIRECTOR, BETHANY-FENWICK AREA CHAMBER OF COMMERCE, FENWICK ISLAND, DELAWARE.

RE: Letter thanking the County for including the County Economic Development Office and Director in the Fiscal Year 2009 Budget.

ELVA D. ALLEN, INDIAN RIVER SCHOOL DISTRICT, MINORITY LEADERSHIP ALLIANCE, MILLSBORO, DELAWARE.

RE: Letter in appreciation of the Council's donation for scholarship funding.

JEAN STEELE, TREASURER, THE BETHANY BEACH 4TH OF JULY COMMITTEE, BETHANY BEACH, DELAWARE.

RE: Letter in appreciation of the Council's donation to the Bethany Beach Fourth of July Parade.

**M 376 08
Adopt
Procla-
mation**

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt the Proclamation entitled "PROCLAIMING JUNE 1 THROUGH JUNE 7, 2008 AS CPR / AED AWARENESS WEEK".

Motion Adopted: 5 Yeas.

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

Mr. Jones, Yea

Announcement	Councilman Rogers commented on his wife's recent accident and expressed thanks to "my fellow councilmen, the public, the staff, the fire, police and ambulance world and the paramedics for everything they've done and Glenn Luedtke (Sussex County Director of EMS) ..."
CPR/AED Awareness Week	Glenn Luedtke presented information on the life saving value of citizens learning to perform Cardio Pulmonary Resuscitation (CPR) and using Automated External Defibrillators (AED). He noted that training is available at the three hospitals in the County and Delaware Technical and Community College, as well as through the American Heart Association.
Phoenix Club Inductee	Lars Granholm, Sussex County Paramedic and Chairman of the Phoenix Club, introduced Walter Brittingham, a firefighter from the Rehoboth Beach Fire Company, who is a recent cardiac arrest survivor. Mr. Granholm is the first inductee of 2008 to the newly resurrected Phoenix Club.
Administrator's Report	<p>Mr. Baker read the following information in his Administrator's Report:</p> <ol style="list-style-type: none"><u>NASCAR Race Weekend – Sussex County Airport</u> During this past weekend, the Sussex County Airport was visited by members of the Dale Earnhardt, Inc., Mark Martin, and Kyle Busch race teams. The County provided a hospitality tent for members of the crew of these race teams. Over 100 race team members attended. We would like to thank County employees and volunteers who assisted with this event, including Susan Wise, Ed Wise, Deborah Jones, Joe Thomas, Brenda Thomas, Ira Hitchens, Shirley Hitchens, Jim Hickin, Susan Hickin, Wes Jones, Marshall Reynolds, Ruth Reynolds, Susan Parks Davis, Robert Rogers, Richard King, David Baker and County dispatchers.<u>County Council Chambers Sound System</u> The Council Chambers sound system has been updated to enhance audio within the chambers, the lobby area and the Administrative Offices. We would like to thank the Sussex County Information Systems for their efforts in this endeavor.<u>Delaware State Police – April 2008</u> During April 2008, 4,031 arrests were made by the Delaware State Police in Sussex County. A total of 3,920 complaints were responded to.<u>Beneficial Acceptance</u> The Engineering Department has granted Beneficial Acceptance to

the following projects:

Adminis-
trator's
Report
(continued)

- Savannah Square, Agreement No. 625, was granted Beneficial Acceptance on May 27, 2008. The developer is Stephen Doyle, Stephen C. Doyle Construction, Inc. The project is located in the northbound lane of Route 113, Dagsboro, in the Dagsboro-Frankford Sanitary Sewer District and consists of four (4) commercial retail sites.
- Bay Crossing - Phase 3B, Agreement No. 835, was granted Beneficial Acceptance on May 22, 2008. The developer is Jay Sonecha, Blenheim Lands, L.L.C. The project is located on Route 1, approximately 1,000 feet south of County Road 268 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District and consists of 26 single-family lots.

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

M 377 08
Adopt
R 018 08

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Resolution No. R 018 08 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE CITIZENS BANK BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Motion Adopted: 5 Yeas.

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

M 378 08
Adopt
Loan
Resolution
(Route 54
Fenwick
Island)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt a Loan Resolution "AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS ROUTE 54 FENWICK ISLAND SANITARY SEWER DISTRICT FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION" (in the principal amount of \$2,800,000.00).

Motion Adopted: 5 Yeas.

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

M 379 08

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt a Loan

**Adopt
Loan
Resolution
(Millville
Sewer)**

**M 379 08
(continued)**

Resolution entitled “AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS MILLVILLE SEWER EXPANSION FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION” (in the principal amount of \$4,000,000.00).

Motion Adopted: 5 Yeas.

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

**M 380 08
Adopt
Loan
Resolution
(Oak
Orchard
Sanitary
Sewer
District)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt a Loan Resolution entitled “AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS OAK ORCHARD SANITARY SEWER DISTRICT FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION” (in the principal amount of \$2,443,000.00).

Motion Adopted: 5 Yeas.

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

**Introduction
of New
Business
Publication**

Mr. Godwin presented the premiere issue of a new business publication entitled des+k (Business in Delaware’s Sussex + Kent Counties) and he introduced its publisher, Mark S. Reeve. Mr. Reeve explained that the publication is designed to be a tool for Economic Development and that it will be an advertising-driven publication.

**Wastewater
Agreement**

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

**M 381 08
Authorize
Wastewater
Agreement/
Breakwater
Estates**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, Agreement No. 895, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Breakwater, LLC for wastewater facilities to be constructed in Breakwater Estates, Phase 2, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

Grant Requests Local Law Enforcement Grant Requests (continued)	Mr. Godwin presented the following Local Law Enforcement Grant requests for the Council's consideration:		
	Dagsboro	\$25,000.00	Police Vehicle and Motorola Radio
	Lewes	\$ 2,415.99	Police Bicycles & Accessories
	Milton	\$25,000.00	Lease payments for vehicles and equipment; operating costs
	Ocean View	\$15,525.00	Office equipment; operating costs

M 382 08 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the Local Law Enforcement Grants to the Town of Dagsboro, City of Lewes, Town of Milton and Town of Ocean View, as presented.

Local Law Enforcement Grants Motion Adopted: 5 Yeas.

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

Legislative Update Mr. Godwin gave a brief Legislative Update, announcing that there have been no significant changes since his report to the Council on May 13th. Mr. Godwin advised that the General Assembly reconvenes on this date; however, no County-related legislation is on the Agenda. Mr. Godwin reported that the following four Bills remain on the House Ready List: House Bill Nos. 244, 280, 311 and 312.

Airport Perimeter Fence Project/Urban Engineers Contract Jim Hickin, Director of Airport and Industrial Park Operations, presented an Agreement between Sussex County Council and Urban Engineers, Inc. for the Sussex County Airport Perimeter Fencing Project (Phase 2) for the performance of engineering services and construction administration at a cost not to exceed \$41,421.00. Mr. Hickin advised that this cost will be covered by a FAA grant; the County's portion of the cost will be \$1,035.00. Mr. Hickin reported that the County is expecting only \$150,000 in grant funding from the FAA this year.

M 383 08 A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council hereby authorizes its President to execute an Agreement with Urban Engineers, Inc. for design services and construction administration for Sussex County Project No. 08-02, Sussex County Airport Perimeter Fence - Phase 2, at a cost not to exceed \$41,421.00.

Execute Agreement with Urban Engineers/Airport Perimeter Fence Motion Adopted: 5 Yeas.

Project

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

**Wastewater
Alternatives
for the
North
Coastal
Planning
Area and
City of
Rehoboth**

Michael Izzo, County Engineer, and Dennis Hasson of Whitman, Requardt & Associates presented a power point presentation on the Alternatives for the North Coastal Planning Area (Inland Bays and Wolfe Neck Regional Wastewater Facility). Mr. Izzo explained that their presentation would explain the options that are available to deal with the treatment and disposal of the wastewater that is generated by the North Coastal Planning Area. Mr. Izzo stated that the County has had discussions for many years with the City of Rehoboth as a potential regional option.

Mr. Izzo recognized Mayor Sam Cooper and two Commissioners from the City of Rehoboth who were also in attendance.

Mr. Izzo reported that on May 19th, he and David Baker attended a City of Rehoboth Commission meeting for the purpose of discussing wastewater alternatives and the possibility of regional wastewater options. At that meeting, two questions were presented to the County by the City:

- If the City of Rehoboth agrees to bridge the \$10.6 million funding gap, will Sussex County agree to participate in a Regional Ocean Outfall project?**
- If the City of Rehoboth requests inclusion in a Regional Spray Irrigation Facility, will the County Council authorize its Engineering Department to perform a Preliminary Engineering Report to examine the feasibility and estimate costs?**

Mr. Izzo presented flow schematics for each of the three Proposed Alternatives for the Council's consideration:

Alternative No. 1 – Regional Ocean Outfall Proposal

The Inland Bays Regional Wastewater Facility would serve Oak Orchard, Long Neck, Herring Creek and Angola Neck. The Wolfe Neck Regional Wastewater Facility would serve West Rehoboth, Goslee Creek, and the Northern West Rehoboth District. The Wolfe Neck Facility is located on 100 acres that the County owns and 325 acres that is leased from the State. The City of Rehoboth Beach Wastewater Treatment Plant, which empties into the Lewes and Rehoboth Canal, would also serve Henlopen Acres and Dewey Beach. Wolfe Neck would continue its spray irrigation operation and beyond the 3.1 MGD capacity, it would join with the City of Rehoboth and pump into a common force main and into an ocean outfall.

Estimated Cost - \$127,500,000

Sussex County's Costs - \$113,400,000

Increased Cost to Sussex County - \$10,600,000

**Wastewater
Alternatives
for the
North
Coastal
Planning
Area and
City of
Rehoboth
(continued)**

Alternative No. 2 - Wolfe Neck to Inland Bay and Rehoboth to Ocean Outfall

Rehoboth would continue to serve Henlopen Acres and Dewey Beach and would change its canal discharge into an ocean outfall. The City and the County would operate separately; the County would not participate with the City of Rehoboth in any regional option. In this scenario, the County's Wolfe Neck Plant would not pump into an Ocean Outfall but into the Inland Bays Facility. The force main from Wolfe Neck to the Inland Bays Facility would provide a costs savings opportunity for Angola Neck and Goslee Creek.

Estimated Cost - \$132,700,000

Sussex County's Costs - \$102,800,000

Increased Cost to Sussex County - \$0

Alternative No. 2A

There has been some discussion of a private wastewater treatment alternative – Wolfe Neck would pump to the Inland Bays Facility, but instead of going into an Ocean Outfall, there would be a pump station for pumping into a land irrigation plant; the County has received an Artesian proposal for 100 percent spray irrigation and a Tidewater proposal for 50 percent spray irrigation and 50 percent disposal by rapid infiltration basins.

Alternative No. 3 – Joint Sussex County/Rehoboth Spray Irrigation

A common spray irrigation alternative for everyone - Wolfe Neck, West Rehoboth, Northern West Rehoboth, Goslee Creek, Angola Neck, Herring Creek, Oak Orchard, Long Neck (everything going out to the Inland Bays Facility). In addition, Rehoboth would pump and the Rehoboth Treatment Plant would stay on line and it would pump through a parallel force main out to the Inland Bays Facility; this force main would be treated effluent.

Estimated Cost - \$157,200,000

Sussex County's Costs - \$111,200,000

Increased Cost to Sussex County - \$8,400,000

Mr. Izzo noted that the County has purchased 2,100 acres of land near the

Inland Bays Regional Wastewater Facility for spray irrigation. He further noted that the Inland Bays Facility will need to be expanded regardless of the decision regarding Rehoboth due to the Oak Orchard, Angola and Long Neck growth. Mr. Izzo advised that, based upon the design schedule of the Angola Neck Sanitary Sewer District, a decision by the Council is needed this summer.

M 384 08
Support
Spray
Irrigation
(Wastewater
Alternative
No. 3) **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to support spray irrigation (Alternative No. 3 – Joint Sussex County/Rehoboth Spray Irrigation).**

Motion Adopted: 4 Yeas, 1 Nay.

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

South
Coastal
Library/
Studio
JAED
Contract
Amendment **Michael Izzo, County Engineer, presented a proposal for the inspection work at the South Coastal Library Project. He advised that the Engineering Department is recommending that Richard Davis perform the inspection work on this project since he is doing the inspection work at the South Coastal Wastewater Facility, which is in close proximity. This will result in a cost savings to the County. (Richard Davis works for Stearns & Wheeler, a sub-contractor to Studio JAED for this project.)**

M 385 08
Authorize
Contract
Amendment
with Studio
JAED/
South
Coastal
Library
Project **A Motion was made by Mr. Dukes, seconded by Mr. Cole, based upon the recommendation of the County Engineering Department, that the Sussex County Council hereby authorizes its President to execute Amendment No. 3, dated April 15, 2008, to its Contract with Studio JAED, to provide Construction Administration and Inspection Services for the South Coastal Library at a cost not to exceed \$198,348.50.**

Motion Adopted: 5 Yeas.

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

Woods on
Herring
Creek
Facility **Michael Izzo, County Engineer, presented the bid results for Temporary Wastewater Treatment for the Woods on Herring Creek Facility. Bids were first received in February 2008; however, the project had to be rebid. Mr. Izzo reported that Tidewater Environmental Services, Inc. has bid \$8,509.64 (per month).**

M 386 08
Award
Bid/
Woods
on Herring
Creek **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that the Bid for Sussex County Project No. 07-06, Temporary Wastewater Treatment and Disposal (Woods on Herring Creek), be awarded to Tidewater Environmental Services, Inc. at the bid amount of \$8,509.64 per month.**

Facility/ Tidewater Environ- mental Services	Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
West Rehoboth Expansion of the DBSSD/ Zaldivar Expansion	John Ashman, Director of Utility Planning, requested approval to prepare and post notices for the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The proposal is for the expansion of the District to include a single parcel with a failing septic system. He noted that, although the parcel is contiguous to the District, it does not currently have a connection. The Utility Construction Division has presented an estimated cost to the owner of the property and the owner has agreed to the cost. The expansion, if approved, will consist of approximately one acre and the owner of the property will be responsible for system connection charges in the amount of \$3,994.000 based on the rates of July 1, 2007 through June 30, 2008. A Public Hearing is tentatively scheduled for July 22, 2008 at 11:00 a.m.
M 387 08 Authorize Preparation and Posting of Notices/ Zaldivar Expansion of the WRE/ DBSSD	A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based on the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorizes the Engineering Department to prepare and post notices for the extension of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District boundary to include the Zaldivar parcel, as presented. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Absent (out of the room during the vote)
The Woodlands of Millsboro SSD/ Request to Circulate Petitions	John Ashman, Director of Utility Planning, requested approval to prepare and circulate petitions on the question of establishing a sanitary sewer district for The Woodlands of Millsboro. This project is located on Route 24 outside of the Town of Millsboro's growth and annexation area. Mr. Ashman reported that a letter has been received from the Homeowners Association asking the Council to consider establishing the District and a letter has been received from the Town of Millsboro stating that they may be willing to enter into an agreement with Sussex County to treat the flow from The Woodlands. The Town has also asked DNREC to revise their priority project list to show that the funds they have made available to the Town of Millsboro for The Woodlands would be available for Sussex County. Mr. Archut noted that systems in The Woodlands are failing.
M 388 08 Approve Circulation of Petitions/	A Motion was made Mr. Phillips, seconded by Mr. Dukes, based on the recommendation of the Sussex County Engineering Department, that the Sussex County Council does hereby approve the circulation of petitions to submit the question of organizing a Sanitary Sewer District for The

The Woodlands of Millsboro	Woodlands of Millsboro to a referendum vote. Motion Adopted: 5 Yeas.
M 388 08 (continued)	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Pinetown Sewer	Brad Hawkes, Director of Utility Engineering, presented a request to grant Substantial Completion for the Pinetown Sewer Collection System.
M 389 08 Grant Substantial Completion/ Pinetown Sewer Collection System	A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department and its Consultant, George, Miles and Behr, LLC, that the Sussex County Council grant Substantial Completion, effective April 30, 2008, for Sussex County Contract No. 96-03, Pinetown Sewer Collection System, to Bunting and Murray Construction, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents. Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Railway Road Construction	Brad Hawkes, Director of Utility Engineering, presented a Wastewater Agreement with Bay Forest LLC and Linder & Company which involves construction on Railway Road in Millville. He explained that the developer is participating in the cost of the restoration and some of the pipeline.
M 390 08 Approve Wastewater Agreement with Bay Forest LLC and Linder & Company/ Railway Road	A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Agreement No. 478-A with Bay Forest, LLC and Linder & Company, Inc. to construct regional wastewater improvements on Railway Road in Millville. Motion Adopted: 5 Yeas. Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Milton Library Project/ Studio	Russell Archut, Assistant County Engineer, reported that the Engineering Department is preparing to bid out the second floor portion of the Milton Library Project. Mr. Archut presented an Agreement with Studio JAED to provide for Construction Administration Services at a cost of \$25,000. The

JAED	Engineering Department plans to award a Contract in August.
M 391 08 Execute Contract Amendment M 391 08 Execute Contract Amendment with Studio JAED (continued)	<p>A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council hereby authorizes its President to execute Amendment No. 4, dated April 15, 2008, to its Contract with Studio JAED to provide Construction Administration and Construction Inspection Services for the Milton Library at a cost not to exceed \$25,000.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Public Hearing/ Proposed Ordinance/ Route 54 Fenwick Island Sewer District	<p>A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,800,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE ROUTE 54 FENWICK ISLAND SEWER DISTRICT PUMP STATION UPGRADE AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”.</p> <p>Mrs. Webb stated that the funding would be used to partially finance the costs of the design, construction and equipping of the Route 54 Fenwick Island Sewer District Pump Station Upgrade consisting of a pump station rebuild including the installation of two additional pumps, the construction of a new pump station building, major upgrades to the force main and other capital improvements to the pump station and collection facilities. The Bonds would be backed by the County’s full faith and credit. It is expected that the debt service on these Bonds will be paid from the revenues of the Fenwick Island Sewer District. It is anticipated that the Bonds will be sold to USDA at 4 1/2 percent for 40 years. The Project will be 100 percent funded by a USDA loan for \$2,800,000.00.</p> <p>Public comments were heard. Daniel Kramer of Bridgeville questioned if the County can guarantee that it would not have to subsidize the project.</p> <p>There were no additional public comments and the Public Hearing was closed.</p>
M 392 08 Adopt Ordinance No. 1971	<p>A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1971 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$2,800,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATIONS OF SUSSEX COUNTY FOR THE ROUTE 54 FENWICK ISLAND SEWER DISTRICT PUMP STATION UPGRADE AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”.</p>

Motion Adopted: 5 Yeas.

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

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

**M 393 08 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500.00
Community Investment Grant from Mr. Jones' Community Investment Grant Account to the Richard Allen School for the Recycle/Ride Across Delaware Project.**

Motion Adopted: 5 Yeas.

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

**M 394 08 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$250.00
Community Investment Grant from Mr. Jones' Community Investment Grant Account to the Woodbridge High School JROTC Fund for JROTC East Coast Regional Championship trip expenses.**

Motion Adopted: 5 Yeas.

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

**M 395 08 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$400.00
Community Investment Grant from Mr. Jones' Community Investment Grant Account to the Friends of the Greenwood Public Library for a computer and for shelving.**

Motion Adopted: 5 Yeas.

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

**M 396 08 A Motion was made Mr. Dukes, seconded by Mr. Rogers, to give \$500.00
Community Investment Grant from Mr. Jones' Community Investment Grant Account to the Friends of the Georgetown Public Library to sponsor a fundraising event for the new library facility.**

Motion Adopted: 5 Yeas.

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

M 397 08 Youth Activity Grant **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$500.00 (\$100.00 from each Youth Activity Grant Account) to the Del-Mar-Va Council Boy Scouts of America for their annual fundraising campaign.**

M 397 08 (continued) **Motion Adopted: 5 Yeas.**
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 398 08 Community Investment Grant **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$1,000.00 from Mr. Dukes' Community Investment Grant Account to the Town of Blades for the National Night Out community event.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 399 08 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Beach Film Society for the Independent Film Festival.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 400 08 Councilmanic Grant **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 from Mr. Phillips' Councilmanic Grant Account to the Garden Club of Millsboro for replacement planters.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 401 08 Community Investment Grant **A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$5,000.00 from Mr. Phillips' Community Investment Grant Account to the Town of Millsboro for community improvement projects.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;

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

M 402 08 Grant **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$1,000.00 from Mr. Dukes' Community Investment Grant Account to the Nanticoke Rotary Club for their golf tournament fundraiser.**

M 402 08 **Motion Adopted: 5 Yeas.**

Community Investment Grant (continued) **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

There was no Additional Business to be brought before the Council.

M 403 08 Recess **At 11:47 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **At 1:37 p.m., Mr. Jones called the Council back into session.**

**Public Hearing/
C/U
No. 1741** **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 BORROW PIT EXCAVATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 199.50 ACRES, MORE OR LESS" (Conditional Use No. 1741) filed on behalf of David G. Horsey & Sons, Inc.**

The Planning and Zoning Commission held a Public Hearing on this application on May 8, 2008 at which time the Commission recommended that the application be approved, with the following conditions:

- 1. No materials may be brought from off the site for processing, mixing or similar purposes.**
- 2. The operation of the borrow pit shall be controlled to provide reasonable protection to surrounding properties, as follows:**
 - A. A 200 foot buffer shall be maintained along that portion of the site which abuts the State Route 20 (Hardscrabble Road) and the Route 446 (Asbury Road) rights-of-way. Existing vegetation within the buffer area between the property line and the perimeter dike shall remain undisturbed.**
 - B. A 100 foot vegetation buffer shall be maintained along all other perimeter property lines within the site. Existing vegetation between the property lines and the perimeter dike shall remain undisturbed.**
 - C. A water truck will be available to control dust from interior trucking traffic when conditions require.**
- 3. Hours of operation of trucking activities shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday, and 6:00 a.m. to 2:00 p.m. on Saturday. There shall be no trucking activities on Sunday.**

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(continued)

4. Entrance improvements required by the Delaware Department of Transportation in connection with this land use will be completed by the Applicant.
5. The borrow pit entrance shall have a fenced gate, which shall be secured when the operation is closed.
6. No materials will be stored on any access roads or within any buffer areas.
7. Signage will be placed at appropriate locations to designate pit areas.
8. Fuel shall be stored in storage tanks with confinement areas as required by the Department of Natural Resources and Environmental Control (DEREK) and the Office of the State Fire Marshal.
9. No stumps, branches, debris or similar items will be buried on the site.
10. A Final Site Plan, including all pit side slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to commencement of operations.
11. Before any excavation operations begin, a complete Environmental Impact Study as defined in connection with Ordinance No. 1310 will be conducted and presented with the Final Site Plan.
12. Owner shall comply with all State and County erosion and sediment control regulations.
13. Owner shall be responsible for monitoring ground water quality. Specifically, owner shall install two wells, one above the excavation, and one below the excavation. Monitoring shall be performed by a licensed geologist, and the results filed on an annual basis with Sussex County and the Department of Natural Resources and Environmental Control (DEREK). Owner shall be responsible for all cost associated with the water monitoring. Owner shall also be responsible for the cost of correcting any adverse impact on water quality which may be occasioned by the excavation operation. Necessary remediation shall be determined by Sussex County, upon guidance from the Department of Natural Resources and Environmental Control.
14. Reclamation plans shall indicate finished grading, seeding, and planting schedules designed to create a pleasing appearance. Reclamation will be completed in phases as excavation operations in a section are completed. Applicant will notify the Planning and Zoning Department in writing on or about April 1st of each year as to the status of the reclamation and reclamation plans for the following year.
15. The 199.5 acre parcel shall be divided into three (3) phases of approximately 45 acres each. Phase Two will not be started until 75% of Phase One is completed. Phase Three will not be started until 75% of Phase Two is completed.
16. The dredge may operate 24 hours per day, but no front-end loaders, backhoes, or other construction equipment with safety buzzers will

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- operate after 10:00 p.m.
17. Every five (5) years after the start of digging, the Planning and Zoning Department shall perform an inspection of the site, and shall request written comments from all appropriate State agencies so that the Planning and Zoning Commission can review the comments to verify compliance with all then-existing regulations. After twenty (20) years, the property owner shall complete and pay for an Environmental Impact Study, as the phase is defined by the Department of Natural Resources and Environmental Control, or any successor. Upon certification by the Department of Natural Resources and Environmental Control of the owners' compliance with then-existing regulations, the permit shall be extended for an additional ten (10) years. The permit shall terminate upon the expiration of forty (40) years from the date of enactment.
 18. Trucking vehicles shall be prohibited from using Road 446 (Asbury Road). The entrance to the borrow pit shall be from Route 20 (Hardscrabble Road).

(See the minutes of the meeting of the Planning and Zoning Commission dated May 8, 2008).

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the Council's record.

Mr. Lank distributed Exhibit Books which were provided by the Applicant.

David Horsey, Michael Horsey, Wayne Horsey and Bobby Horsey were present with Tim Willard, Attorney, and Jeff Clark of Land Tech Land Planning, LLC. They stated that the application is for a borrow pit situated on Hardscrabble Road and Asbury Road; that the 199.5 acre site is bordered by wooded and undeveloped properties to the north and east; that the proposed borrow pit will contain approximately 135 acres of the 199.50 acre site; that the property is largely wooded and has been managed for sustainable forestry use by the Glatfelter Pulp Company since 1983; that they also operate other borrow pit sites south on Route 20, next to the State Landfill and on Route 9 west of the site; that the site is not within a flood zone; that the property lies immediately north of a fully restored borrow pit which was operated and maintained by the applicant from 1985 through 2005; that studies have been performed on the proposed site and it was determined that the soils are excellent for the intended use; that the proposed entrance on Route 20 would have to be approved by DelDOT; that the entrance would be fenced and secured; that no Traffic Impact Study is required in connection with this proposed land use; that a 50 foot easement is proposed; that forested buffers of 100 and 200 feet in width are proposed and will remain in their natural state; that they do not propose to disturb any lands south of Asketum Branch, except for the scales location and the access road; that there will be three phases starting in the southwest area and moving north; that a sand plant is proposed and will be located on

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approximately 7 acres of the site; that a water truck will be on the site at all times to control dust; that there were no endangered or threatened species observed on the property; that there will be no dewatering; that the proposed hours of operation are from 6:00 a.m. to 6:00 p.m. Monday through Friday and 6:00 a.m. to 2:00 p.m. on Saturday; that there will be no borrow activities within 200 feet of any home of other ownership; that the Final Site Plan shall include a reclamation plan, which will address safety and erosion elements; that there will be a strict re-vegetation program; that the reclamation will have to be reviewed and approved by the Sussex Conservation District; that the conditional use is being sought so that the Company can prepare its' long range plan; that the site is centrally located; that they have no opposition to the conditions recommended by the Commission; that the proposed impact will be no different than the activities that have long existed in the area; and that, with the design of the operation and the conditions to be imposed on the conditional use, there would be no negative or adverse impact on the area properties.

Mr. Willard submitted Proposed Findings and Fact.

In response to questions from the Council, the Applicant and their representatives stated that the Borrow Pit across the road is in the Reclamation Phase and no more material will be brought out of the pit and that the two borrow pits will not operate concurrently; that the closest borrow pit is approximately 1 1/2 miles down the road; and that the borrow pit is proposed to be 96 to 97 feet deep and that DNREC has not expressed any concerns regarding the water table; that no complaints have been filed on any of the Horsey's borrow pits; and that it is their goal not to have any more pits than necessary.

Mr. Willard reported that an area resident, Lois Davis, recently signed an Affidavit in reference to a Board of Appeals Case in Dorchester County regarding a Horsey's borrow pit application, which states that "I have not experienced a well failure or any problems of noise, dust, lighting, physical activity or other conditions resulting from the sand and gravel mining processing operations" and that "these operations have not adversely affected the use, peaceful enjoyment, or value of my property..." The Affidavit was submitted into the Record.

Public comments were heard.

There were no public comments in support of the application.

Bernice Moore, Corinna McAllister, Dr. Michael Smith, Lois Davis, Stephanie Smith, Monte Carey, Donna Carey, Evelyn Davis, Arthur Davis, Betty Turner, and Willis Kirk spoke in opposition to the application. They expressed concerns about the impact on the water supply in the area and the quality of the drinking water; that the borrow pits on Routes 20 and 9 are close in proximity and a study should be performed to determine the impact on the local people and the area; that they question who will be

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responsible for monitoring the activities at the site and the conditions imposed; that no security gates were every installed at the borrow pit on Route 9; that there are no buffers along the borrow pit on Route 9; that they question what kind of regulations are there concerning the number of pits located in a certain size area; that anyone can gain access to the pit and dump something in and contaminate the water; that there are no County regulations limiting the number of pits permitted in a certain area; that there will be increased truck traffic which will amount to approximately 43,750 trucks per year; that the truck traffic will be a safety hazard; that the safety of the children and the quality of life in the area will be jeopardized; that they already have a lake from the pit on Route 9 and now there will eventually be a second pit; that there will be an impact on the value of the homes; that there will be homes situated between the two pits; that there will be five borrow pits in the area if this one is approved; that the area residents were glad when the first pit closed and now their concerns are renewed; that the regulations placed on the Route 9 pit were not followed; that the thousands of snow geese that come to the Route 9 borrow pit site are a nuisance, they carry disease and they destroy crops; that there are poultry farms in the area that could be negatively impacted by disease carried by snow geese; that the Council should seek information from DNREC regarding borrow pits; that there are currently two active pits and one inactive pit; that inactive sites can still create problems; that contaminants can move into the aquifer; that there should be an environmental assessment of the area to determine the impact; that there are two elements of safety issues – the possibility of children drowning in the ponds and the possibility of someone knowingly and unknowingly contaminating the water which could affect the aquifer; that there would be acres and acres of open aquifer; that a requirement to monitor wells is reactive and not proactive; that to ensure quality, security measures are needed; that none of the residents knew about the Public Hearing before the Commission since they did not receive notices; and that they have lived with a borrow pit in the area for a long time and they do not want another one.

A Petition of Opposition containing 43 signatures was submitted into the Record.

Mr. Cole stated that he would like the County to address the borrow pit's possible impact on the water quality and quantity and the impact of a number of borrow pits located in close proximity in one geographic area. Mr. Cole also suggested that the Department of Agriculture could comment on the problem of attracting water fowl to a major farming area and the possible degradation of the water quality.

The Public Hearing was closed.

M 404 08
Defer
Action on
C/U

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Conditional Use No. 1741, an application of David G. Horsey & Sons, Inc.; to leave the record open for a period of sixty days for written comments from DNREC regarding water quantity and quality and other

No. 1741 and Leave Record Open **issues associated with the proposed activity and written comments from the Department of Agriculture on the possible impact of waterfowl impacting the water quality and nearby poultry operations; and thereafter, to leave the record open for thirty days for any written comments in response to DNREC's and the Department of Agriculture's comments.**

M 404 08 (continued) **Motion Adopted: 5 Yeas.**

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

Notification/ C/U No. 1741 **The Planning and Zoning Commission will notify the Applicant and the spokesperson for the opposition, Stephanie Smith, once submissions have been received from DNREC and the Department of Agriculture.**

Public Hearing/ C/U No. 1790 **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 A CONTINUING CARE RETIREMENT COMMUNITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.85 ACRES, MORE OR LESS, OF A 54.87 ACRE TRACT" (Conditional Use No. 1790) filed on behalf of Martha's Light, LLC.**

The Planning and Zoning Commission held a Public Hearing on this application on May 8, 2008 at which time the Commission recommended that action be deferred. On May 22, 2008, the Commission recommended that the application be approved, with thirteen conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated May 8 and 22, 2008).

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the Council's record.

Mr. Lank distributed Exhibit Books which were provided by the Applicant.

The Commission found that David West and Barbara Croyle were present on behalf of the application with Stephanie Hansen, Attorney. Also present were Keith Rudy and Kevin Burdette of McCrone, Inc. and Vernon Feather, an Architect with SFCS, Inc. They stated that the name of the Applicant, Martha's Light, LLC, has been changed to Mariposa at Bethany, LLC; that Peninsula United Methodist Homes (PUMH) are operating four (4) existing facilities: (1) Methodist Country House in Wilmington, Delaware, (2) Methodist Manor House in Seaford, Delaware, (3) Cokesbury Village in Hockessin, Delaware, and (4) Heron Point of Chestertown in Chestertown, Maryland; that development activities surround the proposed

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Hearing/
C/U
No. 1790
(continued)

project site including Sea Colony, Ocean Way Estates, Clearwater, and the Town of Ocean View; that this project could be considered an infill project; that the site is located in Investment Level 2 and 3 areas according to the State Strategies Maps; that they attempted to annex the site into the Town of Ocean View; that the Town of Ocean View supports the project, but does not desire to annex the site at this time; that the Town of Ocean View has submitted a letter in support of the project; that they considered applying for a nursing home/care facility through the Board of Adjustment but were advised by Richard Berl, Assistant County Attorney, that the Board could not give consideration to the additional commercial type of activities related to this application; that this application is for the construction of a continuing care retirement community with 38 carriage home units to the west and south of the main building and 30 two-bedroom apartments within 3 villa-style buildings; that the first phase of the project will include 140 independent living apartments, 40 assisted living apartments, 15 memory support units, 39 nursing rooms, and 36 carriage homes.; that Phase II will include two additional carriage homes, proposed expansions of the main facility including amenities, additional independent living apartments, and 30 villa apartments; that the main building square footage equals 365,000 square feet; that they intend to serve the needs of the aging community; that all religious faiths are accepted; that there is a need to serve the southeastern portion of the County; that residents will have access to all facilities within the community; that typically a resident could move from one area of the community into another area; that they have two proposed points of access, one onto Ogre Drive and one from Canal Landing; that it may be possible to provide an emergency connector to Ocean Way Estates; that sidewalks and walking paths will be provided throughout the project; that outside amenities will also include a grand lawn, water features, and gazebos; that they hope to connect to DNREC's future walking path along the Assawoman Canal; that a bridge is proposed to cross the man-made pond on the site; that additional facilities include a small bank, a library, dining facilities, transportation facilities, a fitness center, an aquatic center, a café, an indoor pool, a beauty shop, game rooms, a convenience/gift shop, a post office, and arts and crafts rooms; that they will be providing fulltime security services; that they will be responsible for maintenance of streets and street lighting; that the Millville Fire Company has been advised of the use and its' needs; that they anticipate a start of 130 to 140 job positions related to the project with a total of 200 positions in the future; that Peninsula United Methodist Homes has over 1,000 employees in their existing facilities; that they will be working with local high schools and Delaware Technical & Community College for trained employees; that the density calculates to 7.6 units with the health care units or 5.4 units without the health care units; that they have met with area residents to explain their proposal and received positive responses from those residents in attendance; that they realize that they will need to apply for variances for the height of the building since they are proposing 67-feet to the top of the chimney and 58-feet to the top of the roofline; that the height is needed to allow for taller ceilings due to the dining facilities, etc. and since they are planning on using air handlers within the roof structure area causing a need

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C/U
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(continued)

for the higher roof line; that the air handlers within the roof structure area were established due to the possible high winds and storm events that sometimes impact the coastal areas; that they are proposing a 10-foot separation between single family dwellings since there are no property lines proposed; that they are proposing to develop this site as a LEED certification project for high energy sustainable buildings; that they received PLUS comments on December 21, 2007, responded to the PLUS comments on January 22, 2008, and received a final response from the Office of State Planning Coordination in reference to the PLUS response on April 3, 2008, which referenced that the Office of State Planning Coordination has no objections to the project provided it will be in compliance with all applicable rules and regulations and acknowledging that it appears that the developer is willing to work to address any concerns the State agencies might have regarding this project; that Tidewater Utilities will be providing water service; that Sussex County will be providing sewer service; that approximately 45% of the site will be impervious cover; that Best Management Practices will be utilized; that the site is not located in a source water protection area; that a portion of the site is located within a Flood Zone AE requiring 5-foot elevation; that wetlands have been delineated and that approximately 0.5 acres of the site is considered tidal wetlands; that a 50-foot setback from tidal wetlands has been provided; that stormwater management will include disconnected runoff from roof drains into bio-swales and filter strips with vegetation plantings, bio-filtration and a large wet pond; that the area calculation of open space equals approximately 26-acres or 63% of the site; that open space will include walking trails, sidewalks, the grand lawn near the main building, and community greens; that they are proposing a buffer and open space management plan and maintenance plan; that they have created an agreement to eliminate the 50-foot requirement for a buffer from agricultural lands; that a 30-foot buffer is proposed along the adjacent 12 acre parcel and additional buffers are proposed along Ocean Way Estates and the southerly property line; that the buffers will be improved with a minimum of 1,000 native species trees; that a Phase I Environmental Assessment Study is being performed; that a Traffic Impact Study was not required by DelDOT; that DelDOT will require some roadway and intersection improvements; that the streets will be privately maintained; that additional rights-of-way will be provided to Muddy Neck Road and Ogre Drive; that there are no known cultural or historical sites on the site; that it has been established that 368 parking spaces are required and that 405 spaces are being provided; that they have received letters in support of the Application from the Town of Ocean View, the Bethany-Fenwick Area Chamber of Commerce, the Greater Seaford Chamber of Commerce, and Dave Smith, a Seaford resident that utilizes the Methodist Manor House facilities in Seaford, in addition to the letters already in the Exhibit Book; that elevators will be provided; that they may be able to use some pervious pavers in some of the parking areas to help reduce the amount of impervious cover; that a shuttle to the beach will be provided; that evacuation issues are being studied; that the finished floor of the buildings is proposed to be raised up to an elevation of 8-feet to equal the 500-year

**Public
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C/U
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(continued)**

flood criteria due to the close proximity to the Assawoman Canal; that the man-made ditches on the site are proposed to be filled if approved by the Army Corps of Engineers; that the site is a part of a 132 acre drainage area; that the pool and fitness center will be open to the general public; and that the project will fill a need in eastern Sussex County by providing quality housing with a continuum of care for the elderly while providing a job creation component; and that the Applicant is in agreement with the conditions recommended by the Commission.

Public comments were heard.

Bill Wichmann of Millville, Director and Pastor of St. Martha's Episcopal Church, and Jeff Johnson, a resident of Bethany Beach and a member of St. Martha's Church, spoke in support of the application. They stated that the proposed use would enhance the area and that there is a need in the area for a Continuing Care Retirement Facility.

Mr. Lank reported that a letter, dated May 8, 2008, was received from Representative Gerald Hocker in support of the application.

The Public Hearing was closed.

**M 405 08
Adopt
Ordinance
No. 1972
(C/U
No. 1790)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1972 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONTINUING CARE RETIREMENT COMMUNITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 42.85 ACRES, MORE OR LESS, OF A 54.87 ACRE TRACT" (Conditional Use No. 1790) filed on behalf of Martha's Light, LLC, with the following conditions:

1. The maximum number of residential dwelling units, consisting of single-family homes, independent living apartments and villa apartments, shall not exceed 232, as proposed on the Preliminary Plan for the project. The maximum number of healthcare units shall not exceed 94, which will be a combination of assisted living units, memory support units and nursing units.
2. The interior street design shall comply with or exceed Sussex County standards and shall include sidewalks, walking paths, and street lighting.
3. All entrances, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT.
4. The Continuing Care Retirement Community must be annexed into the Bethany Beach Sanitary Sewer District and construction of sewer infrastructure must be in compliance with County Engineering Department requirements.
5. The Continuing Care Retirement Community shall be served by a

- M 405 08
Adopt
Ordinance
No. 1972
(C/U
No. 1790)
(continued)**
- public utility licensed by the Delaware Public Service Commission to provide potable water and fire protection to the property.
6. Storm water management and erosion and sediment control shall be constructed in accordance with all applicable State and County requirements and shall be operated utilizing Best Management Practices.
 7. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all storm water management areas and erosion and sedimentation control facilities.
 8. The Applicant will provide for the perpetual maintenance, repair and replacement of buffers, storm water management facilities, recreational facilities, streets and other common areas.
 9. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.
 10. A 30-foot landscaped buffer shall be located along the entire perimeter of the Continuing Care Retirement Community project except for that portion of the perimeter adjoining Assawoman Canal and where there are proposed roadway interconnections with adjacent development.
 11. As stated during the Applicant's presentation, a deed restriction shall be placed on the adjacent 12+/- acre parcel that is owned by the Trustees of the Protestant Episcopal Church of the Diocese of Delaware so that all agricultural uses would cease on that property upon construction of any improvements within 50-feet of the common boundary between the Continuing Care Retirement Community and the 12+/- acre parcel.
 12. Any deviations from the permitted height limit shall require the approval of the Board of Adjustment.
 13. Final Site Plan review and approval shall be required by the Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

**M 406 08
Go Into
Executive
Session**

At 4:00 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to go into Executive Session for the purpose of discussing Potential Litigation.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 4:01 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 Potential Litigation. The Executive Session concluded at 4:14

p.m.

M 407 08 **At 4:15 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Rogers, to**
Reconvene **come out of Executive Session and to reconvene the Regular Session.**

Regular

Session

M 407 08

(continued)

Motion Adopted: 5 Yeas.

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

M 408 08

Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to adjourn at
4:15 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council