



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 17, 2007

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 17, 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
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
Rebecca Trefillis	Assistant County Attorney

M 404 07 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the
Approve Agenda by deleting "South Coastal Library – Lease for Relocation during
Agenda Construction"; to move "Any Additional Business Brought Before Council"
to follow the 7:00 Public Hearing; 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

M 405 07 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the
Approve minutes of June 12, 2007.
Minutes

Motion Adopted: 5 Yeas.

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

M 406 07 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the
Approve minutes of June 19, 2007.

Minutes

Motion Adopted: 5 Yeas.

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

Correspondence

Ms. Trifellis read the following correspondence:

**CHELSEA BETTS, MISS DELAWARE'S OUTSTANDING TEEN,
GEORGETOWN, DELAWARE.**

RE: Letter in appreciation of donation.

POSITIVE GROWTH ALLIANCE, LEWES, DELAWARE.

**RE: Letter in appreciation of the assistance provided by County employee,
Eddie Sparpaglione, at the 2007 Quality of Life Awards Banquet.**

NANTICOKE SENIOR CENTER. SEAFORD, DELAWARE.

**RE: Letter in appreciation of the Council's \$25,000 grant for the
construction of a new Center.**

THE SALVATION ARMY, SUSSEX COUNTY, DELAWARE.

**RE: Letter thanking Mr. Dukes for meeting with them on the important
expanded work of The Salvation Army and asking the Council to consider
contributing \$35,000 to their organization.**

**WALTER MCLEOD, PRESIDENT, CLEAN BEACHES COUNCIL,
WASHINGTON, D.C.**

**RE: Letter in appreciation of the Council's support of "National Clean
Beaches Week".**

**GEORGE W. BUSH, PRESIDENT, UNITED STATES OF AMERICA,
THE WHITE HOUSE, WASHINGTON, D.C.**

**RE: Letter in appreciation of the Council's observance of "National Clean
Beaches Week".**

Fiscal 2008 Reim- bursable Transportation Budget

**Mr. Baker presented the Fiscal Year 2008 Delaware Transit Corporation's
Reimbursable Transportation Budget; each year, the County Council is
required by the State of Delaware to approve the budget allocations for
Sussex County Senior Services transportation.**

**For Fiscal Year 2008, a budget appropriation in the amount of \$796,862.00
was approved by the General Assembly, the same amount as the last five
years, as follows:**

<u>Agency</u>	<u>Fiscal 2007</u>	<u>2008 Funding Request</u>	<u>Shortfall Percentage</u>
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Cape Henlopen Senior Center	\$ 41,600	\$49,100	\$ 7,500	18%
CHEER	\$549,235	\$626,910	\$ 77,675	14%
Easter Seals	\$ 47,279	\$ 78,700	\$ 31,421	66%
Indian River Senior Center	\$ 2,100	\$ 2,100	-	0%

**Fiscal 2008
Reim-
bursable
Transpor-
tation
Budget
(continued)**

<u>Agency</u>	<u>Fiscal 2007</u>	<u>2008 Funding Request</u>	<u>Shortfall</u>	<u>Shortfall Percentage</u>
Laurel Senior Center	\$ 92,653	\$107,377	\$ 14,724	16%
Lewes Senior Center	\$ 24,000	\$ 66,300	\$ 42,300	176%
Nanticoke Senior Center	\$ 39,995	\$ 52,732	\$ 12,737	32%

Mr. Baker explained that the Council could (1) approve the funding as proposed by the State, (2) reallocate the funds differently to the centers, or (3) approve the funding as proposed and provide County grants to supplement the funding. He noted that additional funding could be considered at another time in conjunction with other requests the County has received from other agencies.

Mr. Baker recommended that the Council approve the funding allocation at the same level for each agency as was approved in Fiscal 2007.

Mr. Rogers referred to the Lewes Senior Center's 175 percent shortfall and he questioned if the Council is just a vehicle for distributing funds or if the Council could allocate the funding differently. Mr. Baker responded that the Council makes the decision on how the funds are allocated and that the allocations, as recommended, are based on previous years.

Mr. Rogers questioned if the County has a mechanism in place to investigate the shortfalls and why they are occurring. He stated that the Lewes Senior Center is suffering financially and that they have had to limit their hours as they cannot afford to operate full-time. He also stated that it is the transportation costs that are impacting them the most. Mr. Rogers stated that they need additional funding to remain open and that the additional funding is needed in the immediate future. Mr. Rogers noted that the allocations approved by the Council have to be equitable and fair to all the centers.

Mr. Dukes suggested that a formula could be derived, based on mileage, trips, number of active members, etc.

Mr. Baker responded that the County could meet with the Delaware Transit Corporation to discuss establishing a formula.

Mrs. Webb stated that she would gather information from all the senior centers on their requests and budgets.

It was the consensus of the Council to approve the allocations, as presented; to direct Mr. Baker and Mrs. Webb to report back to the Council in thirty days on a formula for next year's allocations and a guideline for future years; and to try and find additional funds for the Lewes Senior Center.

M 407 07

**Authorize
Allocation/
State
Senior
Center
Transportation
Program**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council authorizes the allocation of the State Senior Center Transportation Program Fund for Fiscal 2008, for a total of \$796,862.00, based on the same individual Senior Center amounts, as approved for Fiscal Year 2007.

Motion Adopted: 5 Yeas.

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

**Draft
Ordinance
Relating to
Illegal
Signs**

Mr. Baker reviewed a Draft Ordinance entitled "AN ORDINANCE TO AMEND SECTION 115-160 OF THE CODE OF SUSSEX COUNTY WITH RESPECT TO ILLEGAL SIGNS". The Ordinance requires thirty days written notice to the owner of an illegal sign or an owner or lessee of property on which an illegal sign has been placed, before being able to remove it. The revision will eliminate the need to notify the owner of the sign, or the owner of land, and will allow for the immediate removal of an illegal sign. The revisions also allow for a collection fee of \$25.00, which the County may collect from either the owner of the sign or the owner of the land on which the sign was located. In addition, the revisions would allow for an additional fee of \$15.00 for the retrieval of a sign from the County by the owner.

Mr. Rogers stated that the Draft Ordinance mirrors State Law.

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND SECTION 115-160 OF THE CODE OF SUSSEX COUNTY WITH RESPECT TO ILLEGAL SIGNS". The Proposed Ordinance will be advertised for a Public Hearing before the Planning and Zoning Commission and the Sussex County Council.

**Adminis-
trator's
Report**

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

1. Johnson's Corner Sanitary Sewer District

The Sussex County Engineering Department will be conducting a referendum at the Sound United Methodist Church Community Building, 37894 Sound Church Road near Fenwick Island,

Delaware, on Saturday, July 21, 2007, from 9:00 a.m. until 2:00 p.m. The purpose of the referendum is to establish the Johnson's Corner Sanitary Sewer District.

2. **Beneficial Acceptance**

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

- Harts Landing – Phase 2, Agreement No. 403-1, was granted Beneficial Acceptance on July 2, 2007. The developer is Hailey-Ribera Development, L.L.C., and the project is located on the west side of Route 24, north of Love Creek, in the North Coastal Planning Area, consisting of 86 single-family lots.
- Ashley Manor – Phase 1 – On-site, Agreement No. 539, was granted Beneficial Acceptance on July 9, 2007. The developer is Beazer Homes Corp., and the project is located on Route 20, north of Route 54, in the Fenwick Island Sanitary Sewer District, consisting of 22 townhouses.
- Ashley Manor (off-site construction due to Route 20 relocation), Agreement No. 539-1, was granted Beneficial Acceptance on July 9, 2007. The developer is Beazer Homes Corp., and the project is located on Route 20, north of Route 54, in the Fenwick Island Sanitary Sewer District, consisting of off-site construction for a residential development.
- Bethany Grand, Agreement No. 689, was granted Beneficial Acceptance on July 13, 2007. The developer is Bethany Grand, L.L.C., and the project is located at Sussex County Road 357 and South Orlando Avenue in the Bethany Beach Sanitary Sewer District, consisting of 23 townhouse units.

Adminis-
trator's
Report
(continued)

Cost
Sharing
Agreement/
Johnson's
Corner
SSD

Michael Izzo, County Engineer, presented a proposed agreement for cost sharing for the Johnson's Corner Sanitary Sewer District. He announced that the Engineering Department will be conducting a referendum on Saturday, July 21st. Mr. Izzo advised that the capital costs were estimated for this sewer district extension at \$13.7 million, which results in an average cost of \$1,180.00 per year. He noted that the capital costs (\$13.7 million) are offset by a \$1.5 million Federal grant and a \$500,000 grant from the County.

Mr. Izzo explained that, when the Engineering Department was putting together the sewer district, they became aware of several developments that were being proposed in the area, including Bay Twenty, PMP Associates, and Twin Cedars. He announced that the Department has negotiated an agreement where the developers will submit a cash contribution of \$1.2 million for project costs and \$250,000 toward a program to help low-income

individuals pay their connection fees, which are projected to be \$3,600.00 per EDU (to include plumbing costs).

M 408 07
Approve
Cost
Sharing
Agreement

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Memorandum of Understanding with Twin Cedars, LLC, Bay Twenty LC and PMP Associates, LLC to provide a contribution in the amount of \$1.2 Million toward project costs and \$250,000 to assist with connection fees to benefit low income residents, contingent upon the approval of the Finance Director.

M 408 07
(continued)

Motion Adopted: 4 Yeas, 1 Nay.

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

Contract
Amendment
Milton
Library
Renovations

Russell Archut, Assistant County Engineer, presented a Contract Amendment to the County's Contract with Studio JAED for the second floor renovations to the Milton Library. The Contract Amendment, in the amount of \$49,967.00, is for the preparation of the design plan and specifications and will allow for the bidding of the project.

M 409 07
Authorize
Contract
Amendment
Milton
Library
Renovations

A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the County Engineering Department, that the Sussex County Council hereby authorizes its President to execute Amendment No. 1, dated March 19, 2007 to its Contract with Studio JAED, to provide design services for the Milton Library Renovations, at a cost not to exceed \$49,967.00.

Motion Adopted: 5 Yeas.

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

Roof
Masonry
Repairs
Project/
Bid Award

Julie Cooper, Project Engineer, reported on the bid results for the Masonry Repairs Project, Sussex County Administrative Office Building, which includes repairs to the masonry chimneys. The Engineer's Estimate for the project was \$55,000.00. Only one bid was received – from D & A Masonry Restoration, Inc. of Southampton, Pennsylvania, at a cost of \$31,380.00. Ms. Cooper noted that this project is needed to prepare for the Roof Replacement Project.

M 410 07
Award Bid/
Roof
Masonry
Repairs
Project

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 07-01, Masonry Repairs – Sussex County Administrative Office Building Roof, be awarded to D & A Masonry Restoration, Inc. of Southampton, Pennsylvania, at a cost of \$31,380.00.

Motion Adopted: 5 Yeas.

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

Grants

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

M 411 07

Community Investment Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$5,000.00 from Mr. Phillips' Community Investment Grant Account to the Town of Selbyville for ball field improvements.

Motion Adopted: 5 Yeas.

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

M 412 07

Community Investment Grant

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$5,000.00 from Mr. Jones' Community Investment Grant Account to the Town of Greenwood for miscellaneous improvements within the corporate limits of the Town.

Motion Adopted: 5 Yeas.

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

M 413 07

Community Investment Grant

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$10,000.00 from Mr. Jones' Community Investment Grant Account to the Historic Georgetown Association for maintenance funding.

Motion Adopted: 5 Yeas.

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

M 414 07

Community Investment Grant

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$5,000.00 from Mr. Cole's Community Investment Grant Account to the West Rehoboth Community Land Trust to support the administration and operations of the organization.

Motion Adopted: 5 Yeas.

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

M 415 07

**Community
Investment
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$1,000.00 from Mr. Jones' Community Investment Grant Account to the Bridgeville Apple-Scrapple Festival for operating expenses.

M 415 07

(continued)

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

M 416 07

**Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Beach Independent Film Festival for operating expenses.

Motion Adopted: 5 Yeas.

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

Mabel Granke thanked the Council for its continued commitment to the West Rehoboth Community Land Trust and to affordable housing.

Pending

Applications

Mr. Dukes advised that he would be placing pending zoning applications on the Agenda for July 24, 2007.

Public

**Hearing/
Proposed
Ordinance
Relating
to Clerk
of the
Peace
Fees**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE IV §62-16 RELATING TO FEES CHARGED BY THE CLERK OF THE PEACE".

Mr. Baker stated that this amendment revises the fees charged by the Clerk of the Peace that are currently appropriate based on the amount of labor and expenses involved in providing those services. The proposal does not change the fees for Delaware residents (\$30). The following changes would apply: marriage licenses for non-Delaware residents, separate fees for marriage ceremonies for Delaware and non-Delaware residents, separate fees for in-office and out-of-office marriage ceremonies, and separate fees for renewal of vows in-office and out-of-office. Mr. Baker noted that the revised rates would provide partial reimbursement for the costs associated with special ceremonies that the Clerk of the Peace Office conducts. The estimated revenues from the revised fee structure are approximately \$11,000 to \$13,000 annually.

George Parish, Clerk of the Peace, recommended that the Ordinance become effective on September 1, 2007 due to the fact that the Department

is currently issuing marriage licenses with a thirty-day validity.

Public comments were heard. Dan Kramer spoke in support of the ordinance. He also questioned why it took a Republican to propose this ordinance and he stated that the proposal should have been considered and approved years ago.

The Public Hearing was closed.

**M 417 07
Adopt
Ordinance
No. 1909**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1909 entitled “AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE IV §62-16 RELATING TO FEES CHARGED BY THE CLERK OF THE PEACE”, to be effective September 1, 2007.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/U
No. 1748**

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 AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.3 ACRES, MORE OR LESS” (Conditional Use No. 1748) filed on behalf of Delaware Electric Cooperative.

The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2007 at which time they deferred action; on June 28, 2007, the Commission recommended that the application be approved with five conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 14 and June 28, 2007 for additional information on the application, correspondence received, the Public Hearing before the Commission, and the recommendation of approval.)

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.

Copies of an Exhibit Booklet on the proposed Millsboro Substation were distributed to the Council.

Mr. Lank reported that the following additional correspondence was received following the Public Hearing before the Commission: Sussex

Conservation District making reference to soil types, Department of Transportation making reference to the site plan and entrance plans, and David Weidman on behalf of the application offering suggested findings and conditions.

David Weidman, Attorney for the Applicant, was present with James Gardner and Mark Nielson of Delaware Electric Cooperative.

**Public
Hearing/
C/U
No. 1748
(continued)**

Mr. Weidman stated that without the additional electrical substation in this area, the reliability of the electrical service will soon suffer in the event of an outage at either of the other two substations and there is also a risk that some of the distribution lines may become overloaded during peak summer times. He stated that the site selected is in a rural area as is appropriate for the proposed use; that it would be properly buffered; and that the Sussex County Code provides for this type of use in this type of area.

Mr. Gardner stated that the parcel of land would be subdivided off of a larger parcel for two substation sites; that they are proposing an additional substation due to the population growth in Millsboro; that the demand growth in the area has been approximately 8.5 percent annually over the last four years; that the system average is approximately 6 percent; that they plan to start construction in early Fall 2008; that they plan to energize the substation in Spring 2009; that Delmarva Power and Light will provide a substation on the same site; that they propose two drive-ways until construction is complete after which time there will be only one drive-way; that DelDOT does not have any objections to this proposal; that they will erect a 75-foot high lighting mast in the center of the site; and that the site will be fenced with stone covering the ground inside of the fencing.

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

**M 418 07
Adopt
Ordinance
No. 1910
(C/U
No. 1748)**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1910 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 4.3 ACRES, MORE OR LESS” (Conditional Use No. 1748) filed on behalf of Delaware Electric Cooperative, with the following conditions:

1. The perimeter of the substation shall be fenced.
2. Two signs shall be permitted on the fencing around the property to identify the site and emergency contact information.
3. Any security lighting shall be screened away from neighboring properties and County roads.
4. Landscaping shall be provided along Conaway Road to screen the facility from the road.
5. The Final Site Plan shall be subject to the review and approval of the

Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1747)**

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 PUBLIC UTILITIES, BUILDINGS, TREATMENT PLANTS, DISPOSAL SITES, WELL SITE, WATER STORAGE TANK, AND WATER TREATMENT PLANT TO SERVE AS A REGIONAL FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2 TRACTS OF LAND TOTALING 18.43 ACRES, MORE OR LESS” (Conditional Use No. 1747) filed on behalf of Artesian Water Co., Inc.

The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2007 at which time they deferred action; on June 28, 2007, the Commission recommended that the application be approved with ten conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 14 and June 28, 2007 for additional information on the application, correspondence received, the Public Hearing before the Commission, and the recommendation of approval.)

Mr. 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.

Copies of an Exhibit Booklet were distributed to the Council.

Barry Price and Brian Carbaugh of Artesian Water Co., Inc. were present with Dennis Schrader, Attorney, on behalf of the application. They stated that they are proposing to provide a regional facility to provide water and sewer to the area; that the sites are located in a rural area that are buffered; that the site is adjacent to a railroad, three residential properties and agricultural lands; that the sites are a part of a larger parcel that is actively farmed and some woodlands; that Parcel 1 is planned for a wastewater treatment plant and disposal site consisting of rapid infiltration beds, to serve as a regional facility; that Parcel 2 is planned for an office building, water treatment and storage, and sewer facilities; that the treatment plants will be located inside the buildings; that the buildings will have the appearance of barns; that the rapid infiltration beds will not be open ponds; and that the beds would be surrounded by at least a 50-foot isolation

area/buffer as required by DNREC; that the areas are usually fenced.

Mr. Price advised that the following two conditions recommended by the Planning and Zoning Commission are disagreeable to the Applicant:

#3 There shall be forested buffers of at least 30 feet from all property lines. The Rapid Infiltration Basins shall be located at least 100 feet from any dwellings.

#5 The water tower shall not exceed 150 feet in height. It shall be painted white or neutral sky color. No signage or other lettering shall be permitted on it.

Public
Hearing
(C/U
No. 1747)
(continued)

In regards to the proposed Condition No. 3, Mr. Price stated that some of the property lines are wooded and do not need landscaping and that they do propose to provide a landscaped buffer in areas that are not currently wooded.

In regards to the proposed Condition No. 5, Mr. Price stated that the Applicant would like to put the word “Artesian” on the water tank, which is consistent with other tanks in the area.

Mr. Cole pointed out that pictures of Artesian’s water towers in the Exhibit Booklet show no lettering.

Mr. Cole expressed concern that no comments have been received from the County Engineering Department and that he would like to defer action on this application until comments have been received.

Public comments were heard.

Sonny Vuono questioned (1) the definition of the wastewater they are treating, (2) the type of chemicals that would be used and (3) how the wastewater would be disposed of.

In response to questions raised by Mr. Vuono and by the Council, Brian Carbaugh stated that the wastewater is sewage from domestic uses from residences in the area that would be served by this project; that the treatment process is biological; that the water to be discharged would meet all of DNREC’s requirements; that the only residual would be the biological matter (bio-solids/sludge) which would initially be hauled off-site through existing infrastructure for sludge management in Sussex County; that Artesian plans to develop their own sludge management facility in the future; and that they would be required to apply for a conditional use for land application of sludge.

Dave Kerry stated that he owns the adjoining parcel across the street and he spoke in support of requiring landscaped buffers.

The Public Hearing was closed.

**M 419 07
Adopt
Ordinance
No. 1911
(C/U
No. 1747)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1911 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PUBLIC UTILITIES, BUILDINGS, TREATMENT PLANTS, DISPOSAL SITES, WELL SITE, WATER STORAGE TANK, AND WATER TREATMENT PLANT TO SERVE AS A REGIONAL FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2 TRACTS OF LAND TOTALING 18.43 ACRES, MORE OR LESS” (Conditional Use No. 1747) filed on behalf of Artesian Water Co., Inc., with the following conditions

**M 419 07
Adopt
Ordinance
No. 1911
(C/U
No. 1747)
(continued)**

- 1. All improvements for collection, treatment and disposal of sanitary waste shall be constructed and maintained in accordance with the requirements of the Sussex County Engineering Department, the Delaware Department of Natural Resources and Environmental Control, and any other governmental agency with jurisdiction over the use of the site, or any modification thereto.**
- 2. All improvements for central water distribution, including wells, pumps and storage facilities shall be constructed and maintained in accordance with the requirements of the Delaware Department of Health or any other governmental agency with jurisdiction over the use of the site.**
- 3. There shall be forested buffers of at least 30 feet in width, with the Planning and Zoning Commission to determine the property boundaries along which the buffers shall be located in connection with the site plan approval process. The Rapid Infiltration Basins shall be located 100 feet from any dwellings.**
- 4. One lighted sign shall be permitted on each site, not to exceed 32 square feet in size.**
- 5. The water tower shall not exceed 150 feet in height. It shall be painted white or a neutral sky color. No signage or other lettering shall be permitted on it.**
- 6. All buildings shall be limited to 2-stories in height.**
- 7. With the exception of the emergency generators located on the site, all of the equipment needed in the operation of the facility shall be located indoors. The generators shall be housed in enclosures to reduce noise.**
- 8. Any security lighting shall be screened so that it does not shine onto neighboring properties or County Roads.**
- 9. There shall be a white rail fence surrounding the disposal areas.**
- 10. The Final Site Plan shall be subject to review and approval by the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

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

**Public
Hearing
(C/U
No. 1705)**

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 WAREHOUSING, MINI-STORAGE AND CONTRACTOR CONDOMINIUMS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 74.04 ACRES, MORE OR LESS” (Conditional Use No. 1705) filed on behalf of The Commonwealth Group.

**Public
Hearing
(C/U
No. 1705)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2007 at which time they deferred action for further consideration; the record was left open for 21 days to allow the Office of State Planning Coordination time to respond to the Applicant’s response to the original PLUS comments.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 14, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. 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 additional information provided by the Applicant including a Wetlands Investigation Report and a Rare, Threatened and Endangered Species Habitat Assessment Report. Copies of the original Exhibit Booklet were also distributed to the Council.

Mr. Lank reported that a Traffic Impact Study was received on July 6, 2007.

Mr. Lank reported that a letter was received on this date (July 17, 2007) from the Office of State Planning Coordination referencing PLUS comments. Mr. Lank read the letter into the record.

Mr. Lank reported that on July 6, 2007, a copy of a letter from Keith Cooker of Landmark Engineer to Mike Izzo, County Engineer, was received. The letter referenced the wastewater service request. The letter was read into the record.

Mr. Lank read Mr. Izzo’s letter of response to Keith Cooker. In the letter, Mr. Izzo stated that the Engineering Department will allow a water connection into Baltimore Avenue in the Industrial Airpark for the connection of the proposed King Farm Industrial Park.

Mr. Lank reported that a copy of a letter from DelDOT to Keith Cooker of

Landmark Engineering, dated July 6, 2007, was received. The letter was read into the record.

Mr. Lank reported that a Memorandum dated June 12, 2007 was received from the Sussex Conservation District. The letter was read into the record.

Mr. Lank reported that a fax from Richard Anthony was received on this date in opposition to the application. The letter was distributed to the Council and made a part of the record.

Jim Griffin, County Attorney, joined the meeting and Rebecca Trefillis left the meeting.

Public
Hearing
(C/U
No. 1705)
(continued)

The Council found that Tim Jones and Bob Ruggio of The Commonwealth Group were present with Eugene Bayard, Attorney, and Keith Kooker and Bob Stronsky of Landmark Engineering. They stated that this project is a response to the continuing growth of the Sussex County Airport and Industrial Park; that it will stimulate growth and economic development; that the site is located within a Developing District and is contiguous to the Sussex County Industrial Airpark and is a logical location for an expansion of the Industrial Park; that the Industrial Park is almost built-out, employing approximately 1,100 individuals; that the site is an employment center according to the Comprehensive Plan; that the State Economic Development Office strongly supports the application; that the site is located on a State-identified truck route; that the site is not appropriate for residential use; that the property consists of two areas of farm fields and a large wooded area consisting of approximately 42 acres; that there are non-tidal wetlands in the wooded area which are shown on the site plan; that the wetlands will remain undisturbed; that there are no rare type trees on the site; that there are two animal species identified as being rare for Delaware; that there was nothing on a plant or animal life basis that was considered to be rare or threatened on a global basis; that the Town of Georgetown controls the sewer allocation to the Industrial Airpark; that they have been working with the Town and the Town has indicated that capacity is available; that water will be supplied via an agreement with the County Engineer's Office; that two stormwater management ponds are proposed; that they propose a 50 foot buffer around all of the delineated wetlands; that two entrances are proposed to accommodate traffic flow and truck traffic; that DelDOT is requiring a turn lane into the various entrances of the site and the installation of two traffic lights, one at the intersection of Park Avenue and Route 9 and one at the intersection of Park Avenue and South Bedford Street; that the developer would be required to pay for the road improvements; that JCM performed the Wetlands Delineation and found that the two wetland areas were considered to be isolated and not jurisdictional; that the U.S. Army Corps of Engineers have not yet responded to their submittal; that PATS has requested access from Baltimore Avenue within the Industrial Park; and that as part of the application, they propose to build a warehouse facility for PATS where they can continue operations close to the Airport.

Mr. Bayard read into the record a letter from William Weaver of PATS Aircraft LLC addressed to The Commonwealth Group, dated July 9, 2007. The letter confirms that PATS is in negotiations with The Commonwealth Group Ltd. to lease warehouse space at the Airport Center; that it is anticipated that the warehouse would be used for the expansion of the PATS fuel tank assembly business; and that it would bring approximately 200 additional jobs to Georgetown and Sussex County.

Public
Hearing
(C/U
No. 1705)
(continued)

Mr. Ruggio stated that they propose construction that will conform with surrounding landscaping and architecture; that they propose a big box, small business offices, and a personal storage facility; that they propose a phasing plan centered and driven through the PATS operation; that they propose a buffer and screening along the front of the park; that they propose to make the park aesthetically pleasing; and that the proposal will improve the neighborhood and property values.

Mr. Dukes stated that he has heard concerns from area residents about the entrance to the park and lights from traffic flashing on the houses.

Public comments were heard.

Tom Adams spoke in opposition to the project. He stated that the farm fields and woods have provided a buffer for area residents and have shielded the County Industrial Park from view; that it would be a travesty for the natural buffers to be destroyed and replaced with paving and buildings; that area residents were told by Mr. Ruggio in 2007 that the building would be placed as close to the road as possible and that all the trees, including the ones that create the natural buffer on the east side, would be removed; that they were also told it would operate 24 hours a day, seven days a week and would include lighting throughout the night; that they were told there would be two new entrances from Park Avenue and that 150 to 300 vehicles would be going in and out of the entrances per day; that Mr. Ruggio promised that Commonwealth would be a good neighbor; that a berm would be constructed to shield the park from the community and that he may be willing to build a berm or plant trees in the residents' yards; and that he fails to see anything neighborly about Commonwealth's business methods. For the record, Mr. Adams introduced the notes they made of the meeting with Mr. Ruggio. Mr. Adams expressed concern that the wetlands are proposed to be removed; that road traffic and safety will be negatively affected by this project; that Park Avenue could become a "D" rated road in the future; that the road is not up to an industrial rating; that DelDOT's report states that the proposal will result in an average daily traffic estimated increase of 2,967 vehicles per day; that the existing average daily traffic estimate is 2,901 vehicles per day; that the proposal will more than double the amount of traffic utilizing Park Avenue and increase the number of heavy vehicles substantially; that the proposal now includes a 241 space parking lot adjacent to the building; that a condition, if the application is approved, is that Commonwealth should be responsible for

Public
Hearing
(C/U
No. 1705)
(continued)

upgrading the entire road to an industrial rate road; that another major problem is run-off; that the size of this project will create large amounts of run-off and will damage the wetlands and alter the water system of the area; that the PLUS comments recommend that the proposed 50 foot wetlands buffer be increased to at least 100 feet in width, that the project will result in 48 percent impervious surface, that there should be no structure or infrastructure within the buffer zone; that run-off will ultimately run into Indian River since Cow Bridge Branch is a tributary of that river; that the project will result in the removal of 25 acres of prime farmland and over 25 acres of hardwood trees; that the project would negatively affect their properties and that he has an appraisal based on the proposed project to support that statement (decreasing the value by 25 to 30 percent); that the PLUS comments referenced the following items several times: (1) make an effort to reduce the amount of trees removed, (2) utilize a 100 foot buffer around wetlands, (3) make a greater effort to preserve forested wetlands, (4) maintain open space, (5) place open space in a permanent conservation easement, (6) should not build on two wetland areas in the southwest area (the two “disappearing” wetlands); and (7) replace trees.

Mr. Adams submitted the property value appraisal for the record.

Mr. Adams submitted proposed conditions for the Council’s consideration:

- The buffer for this project should include the current agricultural field and 100-feet of uncut forest. This proposed buffer will maintain and preserve that view for travelers and provide a noise, light, and dust buffer for the residents of the area.
- No industrial or manufacturing activity will take place on premises.
- All traffic shall utilize the current entrance/exit to the Industrial Park.
- All road improvements required shall be constructed on the proposed park’s property including egress, regress, deceleration, and acceleration lanes.
- If new entrances are allowed: (a) all heavy traffic – tractor trailer, dump truck, etc. – would be prohibited from using new entrances, (b) entrances would not be open unrestricted entrance and exit.
- Any traffic that is created by current park businesses connected to the County Air Park would be required to utilize the current park entrance. (This should not become a shortcut for current park traffic.)
- No operations after 6:00 p.m. on weekdays.
- No lights (security or otherwise) pointing toward Park Avenue.
- No hazardous materials can be stored or manufactured on the premises.

Richard Wilson spoke in opposition to the project. He stated that he agrees with the conditions set forth by Mr. Adams; that valuable farmland and

forest land will be lost; that the roads are not designed for industrial traffic; that Park Avenue should never have been a truck route; that Park Avenue does not have shoulders, making it more dangerous; that the proposal will result in double the amount of traffic; and that he is concerned about the destruction of the wetlands. Mr. Wilson submitted written comments and photographs of the site.

Public
Hearing
(C/U
No. 1705)
(continued)

Ron Schatz spoke in opposition to the project. He expressed concern that it is proposed that larger aircraft will be coming into the airport; that there will be noise pollution; that the safety of airport activities needs to be considered; that planes overshoot and undershoot runways causing fatalities; and that the character of the area will be changed.

Mr. Dingman spoke in opposition to the project. He stated that it would destroy the wetlands; that if the road has to be widened, it would cut his property in half; that the project will result in more traffic on his street, which is a residential area; and that it will destroy property values in the area.

Kenneth Rogers spoke in opposition to the project. He stated that the King Farm Industrial Park is proposed to be directly across from his home; that he is concerned about the impacts of this project on the area; that he is concerned about safety issues in regards to the two-lane country road; that the road is without shoulders and already at capacity; that the project will decrease the safety of motorists and will increase the traffic burden; that there is a proposed natural gas meter and regulator station in front of his house and 40 feet from the corner of their proposed entrance and exit; that the plan does not address lighting questions raised in the PLUS comments with regard to pilot night vision; that he would like to see the County request an airfield obstruction study with regard to this project; that no building heights are noted on the plans and he questioned if allowances for radio towers should be put into place; that gating and security are not noted on the plans; that 24-hour security would be necessary; that this project poses a threat to the environment; that the project will have a negative impact on residential property values; that the current Industrial Park is hidden by trees and fields; that the proposal is not in character with the area; and that the County should force Commonwealth to give \$1 million and a parking area to the Georgetown Fire Company and EMS because the project will no doubt increase the number of accidents on Park Avenue; and that \$1 million should be given to the Center for the Inland Bays to help offset the gross negative impacts on the ecosystem of Sussex County.

Betty Walsh spoke in opposition to the project. She expressed concern about the traffic; she stated that the road is dangerous and that there are days where there may be four to six semi-diesel trucks all at the same time downshifting to enter Route 9; that when traffic backs up, traffic detours through Salisbury Switch, a private community, where it poses a threat to children in the area.

Robert Haug spoke in opposition to the project. He expressed concern about traffic and run-off and he stated that the project will cause problems to the environment and the health of the neighborhood.

Dean Baker spoke in opposition to the project. He stated that, at the present time, traffic already backs up on Park Avenue and it will only be worse if this project is approved; that emergency vehicles have limited access to Park Avenue due to the lack of shoulders; and that there is no way the applicant can disguise or blend the structure.

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

(continued)

M 420 07

Defer

**Action on
C/U**

No. 1705

(continued)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on Conditional Use No. 1705 filed on behalf of The Commonwealth Group.

Motion Adopted: 5 Yeas.

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

Recess

At 10:40 p.m., Mr. Dukes declared that the Council would recess briefly.

Reconvene

At 10:50 p.m., Mr. Dukes called the Council back into session.

Public

Hearing/

Marine

Farm LLC

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO DELETE AND/OR MODIFY THE CONDITIONS IMPOSED IN ORDINANCE NO. 1770 FOR CHANGE OF ZONE NO. 1554, THE APPLICATION OF MARINE FARM, L.L.C.”

The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2007 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 14, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. 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 copies of an Exhibit Booklet provided by Marine Farm, L.L.C. and a copy of Ordinance No. 1770 (Change of Zone No. 1554 filed on behalf of Marine Farm, L.L.C., which was adopted on April 19, 2005).

Mr. Lank advised that he sent a letter to all of the residents of Jimtown Road which referenced the inclusion of copies of public notices for the public hearings, the purpose of the public hearings, the proposed ordinance, requesting their participation in the public hearing, and advising the

residents that if they had a position on this matter, they should attend the public hearings or submit written comments prior to the public hearings.

Public
Hearing/
Marine
Farm LLC
(continued)

Frank Kea of Caldera Properties was present on behalf of the application. Mr. Kea stated that the reason why Marine Farm made application for an amendment to the conditions imposed on Ordinance No. 1770 is because some of the residents of Jimtown filed a petition with the County in opposition to the improvements offered by the Applicant (improvements which became conditions of approval). Mr. Kea noted that the Applicant is the only one who could request that any changes be made to the conditions. Mr. Kea stated that the Applicant is looking for direction from the Council on this matter.

It was noted that there was testimony at the Public Hearing before the Planning and Zoning Commission that there are 33 properties in the area; that 24 owners/residents live there; and that 13 residents are in support of all of the amenities offered.

Mr. Cole stated that he believes that the amenities offered by the Applicant are in the best interest of the community.

Public comments were heard.

Rosalyn J. Allen Echols was present and stated that everyone keeps misquoting what the Ordinance says; that it doesn't say that the Applicant has to do the improvements; that there is a preface that says "the applicant shall provide the improvements that they offered to the residents of Jimtown as described in the letter of October 11, 2004". Ms. Echols read the letter into the record and she pointed out that the letter states that "any improvements that affect any Jimtown lot must be agreed to by all Jimtown lot, home and parcel owners..."; and she stated that the residents had a choice that has now been taken away.

Mr. Griffin advised that the content of the letter does not supersede what is stated in the Ordinance.

Ms. Echols stated that she is unsure that 13 residents want the improvements, as stated previously; that that she has a petition signed by 22 lot and property and parcel owners in opposition to the improvements; that all of the signatures can be verified as actual property owners; that the majority of the residents are concerned about the cost of services for sewer and water due to their fixed incomes; that they do not need or want street lighting, the sidewalk, or sewer or water service; and that they do not want sewer lines laid under their road and they don't want effluent going under their road.

Ornia Kemp stated that she is not in favor of sewer and water service and that she is opposed to the proposed improvements since it will take away from their country way of living and that if the road is widened, it will

reduce the size of her property.

Bertha Turner stated that she is not in favor of sewer service since she is concerned about the cost.

The Public Hearing was closed.

M 421 07

**Defer
Action on
Proposed
Ordinance
(Marine
Farm LLC)**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to defer action on the Proposed Ordinance entitled “AN ORDINANCE TO DELETE AND/OR MODIFY THE CONDITIONS IMPOSED IN ORDINANCE NO. 1770 FOR CHANGE OF ZONE NO. 1554, THE APPLICATION OF MARINE FARM, L.L.C.”

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A PRODUCE AND LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.508 ACRES, MORE OR LESS” (Conditional Use No. 1760) filed on behalf of Francis B. Prekup. The Proposed Ordinance will be advertised for Public Hearing.

**Introduction
of Proposed
Ordinance**

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 16.18 ACRES, MORE OR LESS” (Conditional Use No. 1758) filed on behalf of Bridle Ridge Properties, LLC. The Proposed Ordinance will be advertised for Public Hearing.

**Introduction
of Proposed
Ordinance**

Mr. Phillips 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 TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 13.00 ACRES, MORE OR LESS” (Conditional Use No. 1759) filed on behalf of Bridle Ridge Properties, LLC. The Proposed Ordinance will be advertised for Public Hearing.

M 422 07

Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 11:34 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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