



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 22, 2008

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 22, 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 491 08 A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the **Approve Agenda** Agenda, as posted.

Motion Adopted: 5 Yeas.

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

M 492 08 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the **Approve Minutes** minutes of June 24, 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 493 08 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to approve the **Approve Minutes** minutes of July 15, 2008.

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:

**Corre-
spondence
(continued)**

SUSSEX COUNTY HABITAT FOR HUMANITY, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's support of the Concord Village Project.

HOWARD C. WILKINS, II, STATE CHAIRMAN, DUCKS UNLIMITED, MILFORD, DELAWARE.

RE: Letter in appreciation of the Council's grant for the Greenwing Event.

JUDITH A. SCIPLE, ASSISTANT TO THE CAMPUS DIRECTOR, DELAWARE TECHNICAL & COMMUNITY COLLEGE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's support of the Spring Gala.

ED LEWANDOWSKI, CENTER FOR THE INLAND BAYS, REHOBOTH BEACH, DELAWARE.

RE: Copy of an email sent to the Board Members of the Center for the Inland Bays announcing the \$10,000 check presented to the CIB by the Sussex County Council for maintenance and operations of the James Farm Ecological Preserve.

BILL LAYTON.

RE: Email expressing appreciation for the tour of the new Emergency Operations Center on Tuesday, July 15th and recognizing the dedicated dispatchers of Sussex County.

DRAKE BURD.

RE: Email expressing appreciation for the tour of the new Emergency Operations Center and acknowledging the many aspects of a dispatcher's job.

WILLIAM F. PFAFF, DIRECTOR, UNIVERSITY OF DELAWARE, SMALL BUSINESS DEVELOPMENT CENTER, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's \$10,000 donation.

BOARD OF DIRECTORS, BRIDGEVILLE PUBLIC LIBRARY, BRIDGEVILLE, DELAWARE.

RE: Letter in appreciation of the County's support of their Building Project.

**Employee
of the
Quarter**

Mr. Baker announced that David Elliott has been selected as Sussex County's Employee of the Quarter for the Second Quarter of 2008. David Elliott has been an employee of the Buildings and Grounds Department

since 2006.

Present Tribute The Council presented a Tribute to David Elliott in recognition of his hard work and dedication to the County.

Delaware District III Softball World Series Martin Donovan of Delaware District 3 Little League and Senior Softball World Series stated that they would once again be hosting the World Series in Sussex County; there will be a Sussex team, four international teams and five United States teams. He noted that this is the fifth consecutive year that they will host the event in Sussex County. The championship game will be broadcast live by ESPN.

The Council presented a check in the amount of \$15,000 to Mr. Donovan for event expenses.

Consider Action Taken at July 15 Council Meeting Mr. Baker discussed the Motion that was adopted at the July 15th Council meeting, whereby the Council waived the Roxana Methodist Church's application fee for a sign variance. Mr. Baker noted that this matter was not on the Agenda for July 15, 2008; it was discussed under Additional Business when representatives from Roxana Methodist Church requested the opportunity to speak. For this reason, it was placed on the July 22, 2008 Agenda for official action.

M 494 08 Waive Application Fee/ Roxana Methodist Church A Motion was made by Mr. Cole, seconded by Mr. Phillips, to waive the application fee for a variance (\$400.00) to be filed by the Roxana Methodist Church.

Motion Adopted: 5 Yeas.

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

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

- 1. Sussex County Source Water Ordinance**

In a letter from Katherine Bunting-Howarth from the Delaware Department of Natural Resources and Environmental Control, Sussex County's Source Water Protection Ordinance "meets the requirements of the Delaware Source Water Protection Law." As noted in the letter, the State of Delaware will provide maps regarding changes to wellhead protection areas.

- 2. City of Rehoboth Beach Wastewater Study Meetings**

The City of Rehoboth Beach has announced a series of meetings to study wastewater options for their treatment system. On July 21, 2008, the City Commission heard a report from Dr. William Ullman

Administrator's Report (continued)

from the University of Delaware regarding the ocean outfall option. At a future meeting, separate reports will be heard regarding spray irrigation and other concerns. The City is planning on submitting a request for proposals to wastewater providers for land application treatment options.

3. State Task Force to Review Borrow Pit Rules and Regulations

House Concurrent Resolution No. 73 established a task force to review borrow pit rules and regulations. Lawrence Lank will be serving as the County's representative on this task force; Shane Abbott will serve as an alternate.

Manufactured Housing Association Demolition Program

Eddy Parker, Director of Assessments, explained that, several years ago, a program was established with the Delaware Manufactured Housing Association (DMHA) to identify and aggressively seek the removal of abandoned and dilapidated manufactured homes in Sussex County. Since 2001, the County and the Association have assisted with the removal of over 120 units. This program is for people who cannot afford to pay for removal of the unit; if this is determined to be the case, financial assistance is offered through a loan. The DMHA provides funding for this assistance program.

Lori Rigby, Executive Director of First State Manufactured Housing Association, presented a check in the amount of \$3,000 to the County for the Demolition Program.

Local Law Enforcement Grant Request

Mr. Godwin presented the following Local Law Enforcement Grant request for the Council's consideration:

Town of Frankford	\$19,211.82	Radios, Taser, Rifle, and Improvements to Police Station
--------------------------	--------------------	-----------------------------------------------------------------

M 495 08 Approve Local Law Enforcement Grant Request

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to approve the Local Law Enforcement Grant to the Town of Frankford, as presented.

Motion Adopted: 5 Yeas.

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

SCRWF Personnel Facilities

Bob Jones, Project Engineer, presented a proposal to grant Substantial Completion for South Coastal Regional Wastewater Facility, Upgrade No. 2, Personnel Facilities Project.

M 496 08 Grant Substantial Completion/ SCRWF

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department and its Consultant, Stearns & Wheler, LLC, that the Sussex County Council grant Substantial Completion, effective June 25, 2008, for Sussex County Project No. 05-07, South Coastal Regional Wastewater Facilities, Upgrade No. 2,

Personnel Facilities	Personnel Facilities, to Conventional Builders, Inc. and that final payment be made and any held retainage be released in accordance with the terms and conditions of the Contract documents.
M 496 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
Grants	Mrs. Webb presented grant requests for the Council's consideration.
M 497 08 Community Grant	A Motion was made by Mr. Cole, seconded by Mr. Dukes, to give \$5,000.00 from Mr. Cole's Community Grant Account to West Side New Beginnings Coalition for garbage pick-up and street lighting costs.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
	(It was noted that \$7,000.00 in Rodent Control Funding would also be given to West Side New Beginnings Coalition for garbage pick-up costs.)
M 498 08 Community Grant	A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$5,000.00 from Mr. Phillips' Community Grant Account to Dagsboro Boys and Girls Club for scholarships and educational supplies.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 499 08 Community Grant	A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$200.00 from Mr. Rogers' Community Grant Account to the H. O. Brittingham Parent Teachers Organization for the PARTNERS Program.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 500 08 Community Grant	A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$1,000.00 (\$200.00 from each Community Grant Account) to Bay Shore Community Church/Blessings Unlimited to expand its food program.
	Motion Adopted: 5 Yeas.

	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 501 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$10,000.00 from Mr. Dukes' Community Grant Account to the Seaford Historical Society for construction costs.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 502 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$150.00 from Mr. Dukes' Community Grant Account to the Eastern Shore American Youth Football League for uniforms and travel costs.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 503 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$8,000.00 from Mr. Jones' Community Grant Account to the Historic Georgetown Association for operating 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 504 08 Community Grant	A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$300.00 from Mr. Jones' Community Grant Account to Delaware District III for the 2008 Senior League Softball World Series souvenir program book.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 505 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$1,000.00 from Mr. Jones' Community Grant Account to the Georgetown Little League for ball field improvements.

	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 506 08 Community Grant	A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to give \$3,000.00 from Mr. Rogers' Community Grant Account to the Milton CatSnippers for their spay/neuter program.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
M 507 08 Community Grant	A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$5,000.00 from Mr. Dukes' Community Grant Account to the Western Sussex Boys & Girls Club for a sign and installation of the sign.
	Motion Adopted: 5 Yeas.
	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Additional Business	Under Additional Business, Daniel Kramer questioned the Council's donation to a church (Bay Shore Community Church). Mr. Kramer also suggested that the Councilmembers spend all the money in their "slush" funds prior to the end of the year, before new Councilmembers take office. Under Additional Business, George Truitt commented on the treatment of disabled senior citizens that are unable to live and take care of their own properties. He stated that, in one situation, the County fined an elderly couple \$700.00 for the condition of their property; this amount was recently paid off; now, the County has them under a court order to go through another hearing. Mr. Truitt advised that their property is still deteriorating and that they do not have enough money to fix it up. Mr. Baker asked Mr. Truitt to provide the names of the individuals. Mr. Truitt also questioned why someone who resides in town limits is required to obtain a Town Building Permit and a County Building Permit. Jacqueline Vogel of Heritage Shores in Bridgeville questioned the purpose of obtaining a County Building Permit. Ms. Vogel advised the County of several problems she has had since purchasing a home in Heritage Shores. She stated that there has been mold in her house and many deficiencies in the construction of her home. She questioned the inspection process and she recommended that the Council consider strengthening its Code and inspection process. Ms. Vogel also commented on the practice of developers segregating the pricing of properties and the pricing of homes.

Public Hearing	At 11:25 a.m., a Public Hearing was held to consider extending the boundary of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District to include a parcel of land owned by Dr. Nieves M. Zaldivar.
Public Hearing/ Zaldivar Extension (continued)	Dr. Nieves M. Zaldivar, the Applicant, spoke in support of the extension and she stated that the parcel contains a single family home and that the existing septic system is old and insufficient for year-round residency. There were no public comments and the Public Hearing was closed.
M 508 08 Adopt R 020 08 Zaldivar Extension of the WRE of the DBSSD	A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Resolution No. R 020 08 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE WEST REHOBOTH EXPANSION OF THE DEWEY BEACH SANITARY SEWER DISTRICT (WRSSD) TO INCLUDE A CERTAIN PARCEL OF LAND SITUATED NORTH OF COUNTY ROAD 266, NEW ROAD, AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE”. 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
M 509 08 Go Into Executive Session	At 11:31 a.m., a Motion was made by Mr. Dukes, seconded by Mr. Rogers, to recess the Regular Session and to go into Executive Session to discuss land acquisition. 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
Executive Session	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 Land Acquisition. The Executive Session concluded at 12:00 noon.
M 510 08 Reconvene Regular Session	At 12:01 p.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to come out of Executive Session and to reconvene the Regular Session. 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

M 511 08 **At 12:01 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Cole, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **Mr. Jones called the Council back into session at 1:44 p.m.**

Public Hearing (C/U No. 1738) **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 EQUESTRIAN CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.0 ACRES, MORE OR LESS” (Conditional Use No. 1738) filed on behalf of Baywood, LLC.**

The Planning and Zoning Commission held a Public Hearing on this application on June 26, 2008 at which time the Commission deferred action. On July 16, 2008, the Commission recommended that the application be approved, with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 26 and July 16, 2008).

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and decision.

Mr. Lank distributed copies of the Project Exhibit Book which were provided by the Applicant.

Robert Tunnell, III of Baywood, LLC; Eugene Bayard, Attorney; Jason Palkewicz, P.E. of McCrone, Inc.; and John Blackburn of Blackburn Architects spoke on behalf of the application.

They stated that they are proposing an Equestrian Center; that the use will be an amenity to the Bridlewood at Baywood Subdivision, which was approved by the Planning and Zoning Commission in 2006 and which awaits final agency approvals; that this recreational facility is intended to be strictly public and will serve Sussex County residents, visitors, and the show horse industry in the Mid-Atlantic Region; that DelDOT has no objection to the proposed use since the proposed use will generate far less traffic than the originally planned 88 lots on this site; that the Secretary of Agriculture, Michael Scuse, endorses this project because it promotes the preservation of farmland and the growth of the equine industry in the County; that central water will be provided by the Long Neck Water Company; that central sewer will be provided by the Inland Bays Preservation Company; that the site will be designed to accommodate emergency vehicles; that the facility will be a state-of-the-art facility; that the facility will be a “Green” building and there will be natural light and natural ventilation; that no lighting will be required during daylight hours; that health and safety are key elements of the facility’s construction; that an occasional regional horse show event with spectators will be held; that the

**Public
Hearing
(C/U
No. 1738)
(continued)**

average number of spectators will be 100 or more; that a State approved Nutrient Management Plan will be in place; that the use is consistent with the Comprehensive Plan; that the use is consistent with the intent of agricultural uses; that they are proposing 150 improved parking spaces; that fencing will be installed along all roadways and along all trails; that fencing will separate any horse activities from ponds and roads and any kind of public area; that there will be approximately 1.6 miles of trails throughout the community; that there will be 50 to 175 foot buffers around the perimeter to accommodate horse trails; that the trails will be 10 to 15 feet wide and in a natural state; that sediment and storm water ponds plans have been approved by the Conservation District; that approximately 25 to 30 people will utilize the facility on a normal day; and that the project will be a regional landmark.

Public comments were heard.

Franklin Richardson of Winding Creek Village stated that he lives adjacent to the site of the proposed project; that he is concerned about a rodent problem as rodents follow livestock; that there will be a tremendous amount of traffic associated with this type of operation, including trailers and trucks; that more than 150 vehicles will be involved in a horse show and only 150 parking lots are proposed; that the proposed use will negatively affect property values in the area; and that he asks the Council not to approve this application.

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

**M 512 08
Adopt
Ordinance
No. 1983
(C/U
No. 1738)**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Ordinance No. 1983 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EQUESTRIAN CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.0 ACRES, MORE OR LESS" (Conditional Use No. 1738) filed on behalf of Baywood, LLC", with the following conditions:

1. There shall be no more than 48 stalls permitted within the facility.
2. The facility shall be used primarily as an equestrian center with limited other social activities.
3. Any retail sales on the premises shall be limited to items reasonably related to the equestrian use of the premises or horseback riding.
4. Any daily food service shall be limited to snack sales. There shall not be a full time bar or restaurant on the premises.
5. Full service food or alcohol service and sales shall only be permitted for group functions or events. These types of events shall include, but not necessarily be limited to equestrian shows, rentals, community activities, etc.
6. A landscape plan showing all proposed landscaping, buffers, etc. shall be submitted as part of the Final Site Plan review process.
7. The Final Site Plan shall be subject to the review and approval of the

Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

Attorneys **James Griffin, County Attorney, left the meeting.**

Absent & Present **Richard Berl, Assistant County Attorney, joined the meeting.**

Public
Hearing/
C/U
No. 1792

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 REGIONAL WASTEWATER COLLECTION, TREATMENT AND DISPOSAL FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 320.21 ACRES, MORE OR LESS" (Conditional Use No. 1792) filed on behalf of Tidewater Environmental Services, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on June 26, 2008 at which time the Commission deferred action and left the record open for the State's response to the Applicant's response to the PLUS comments and thereafter, for fifteen (15) days for the public to respond in writing to the response from the State, once it is received. (Mr. Lank noted that the State's response has been received and will be presented to the Commission at their meeting on July 24, 2008.)

(See the minutes of the meeting of the Planning and Zoning Commission dated June 26, 2008).

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and decision.

Mr. Lank distributed copies of the Project Exhibit Book which were provided by the Applicant.

Bruce Patrick, P.E., President of Tidewater Environmental Services, Inc., and Dennis Schrader, Attorney, spoke on behalf of the application. They stated that they are proposing to create a regional wastewater collection, treatment and disposal facility to be located on 320 acres; that the facility will provide wastewater treatment for 3,700 EDUs of which the bulk of the EDUs are already existing; that the site is located on a farm known as the Wandendale Farm, owned by the Marsh family; that there are four tracts of land that make up the 320 acres; that the purpose of the proposed facility is the treatment and land-based irrigation and aquifer recharge of treated

Public
Hearing/
C/U
No. 1792
(continued)

wastewater from existing neighborhood homes as well as proposed neighborhoods outside of any existing and proposed Sussex County Sanitary Sewer District or Engineering Department Planning Area; that the extension of a central wastewater system in this area is proposed to serve failing on-site systems and new development which will protect the Inland Bays from excessive amounts of nutrients; that the breakdown of the use of the 320.21 acres on the sites includes 97.59 acres for agricultural spray area (31%), 54.29 acres for forested spray area (17%), 19.72 acres for rapid infiltration basins (6%), 12.02 acres for irrigation storage lagoons (4%), 0.48 acres for buildings and facilities (0.2%), 3.11 acres for roadway, driveway and parking (1%), and 133.00 acres of woodland, wetland, and agricultural lands preservation (41%); that the site is located in an Investment Level 3 Area according to the State Strategies; that wastewater treatment and water will be provided by Tidewater Utilities, Inc.; that wetlands have been delineated; that the use will create enhanced nutrient disposal and reduction to meet State drinking water standards at a minimum; that the buildings will appear to be agricultural buildings; that the rapid infiltration basins will be 18-inch basins; that the basins will be fenced; that soil reconnaissance has been completed and the soils are appropriate for the intended use; that there should be no impact on area water bodies or wells; that they have calculated that there will be 40 percent less nitrogen than an agricultural use; that the project will be phased into 2 or 3 phases; that the County Engineering Department supports the application with conditions; that the Nature Conservancy supports the use; that the undisturbed property will remain in agricultural uses; that they are a regulated wastewater utility serving a public use; that the use will protect surrounding properties; that the use is desirable to serve existing and future uses in the area; that 1,500 septic systems exist in the area that can be eliminated by creation of this system; that there should be no odors from any part of the system; that they will provide aeration in ponds if needed; that minimal changes in the buildings would be necessary if expanded in the future; that they are proposing to design, build, own and operate this state-of-the-art wastewater treatment disposal facility; that the proposal will preserve open space and farmland and forest land; and that the facility will serve new development and will prevent multiple community systems from being built.

In response to questions raised by Mr. Cole, the Applicant stated that DNREC does not have any concerns about the project from an environmental perspective.

Mr. Lank distributed copies of the PLUS comments for the Council's review.

The Applicant submitted Proposed Findings of Facts and Conditions.

Public comments were heard.

Joan Deaver of Citizens for a Better Sussex stated that she has been going

**Public
Hearing/
C/U
No. 1792
(continued)**

door-to-door in the area and found that people are uninformed regarding this proposal; that a Town Hall meeting should be required; that there are 29,000 lots in the County that have been approved but not yet built on; that she questions why the County is not protecting communities like The Willows, Love Creek Woods, and Midway Baptist Church with forested buffers; that water in the area is already high in nutrients; that this use would require the farmer to use twice as much fertilizer; that this will make the water in the area more heavily polluted with nitrates; that the land will be exhausted in twenty years; that there is concern about odor and insects; that there is concern about chemicals, hormones, and pharmaceuticals; that the Inland Bays area is a sensitive area; that DNREC already has trouble monitoring the environment in many areas; that the sewer system should not be located in the Environmentally Sensitive Developing Area; that the State does not support this proposal; and that the Council should not approve this application.

John Townsley of Woods Court in Lewes stated that this is the least known project in the area; that area residents were not contacted; that he doubts the water will be “drinking water quality”; that he is concerned about the location of the plant near the Inland Bays; and that he questions the affect of spray irrigation on the land.

In response to questions raised by the Council, Lawrence Lank, Director of Planning and Zoning, stated that 61 notices were mailed; the property was posted; and advertisements were placed in two newspapers. Bruce Patrick stated that Tidewater sent letters to approximately 18 subdivisions.

Darrin Lochwood spoke in opposition to the application. He referenced the wastewater section of the Land Use Plan Update and he read several excerpts:

- In regard to the “Secondary Service Areas”, private wastewater service providers may be permitted to operate in this area on an interim basis, until County service is provided.
- Private sewer providers are considered viable options for wastewater service in areas where county and municipal service is non-existent or un-planned.
- Wastewater from new development should be directed to county or municipal wastewater systems, where available.
- If a new development is served as part of a separate system, then the economics of serving the existing development must stand on its own; therefore, there may be major inefficiencies if the private system is located between two existing areas that need service.

Joanne Townsley stated that sufficient notice about this project was not given to area residents; that if Tidewater wants to service the area, they should talk with the residents in the area; and that conflicting information has been presented and should be resolved.

The Public Hearing was closed.

M 513 08	A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Conditional Use No. 1792 filed on behalf of Tidewater Environmental Services, Inc.
Defer	
Action	
M 513 08	Motion Adopted: 5 Yeas.
Defer	
Action on	Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
C/U	Mr. Dukes, Yea; Mr. Rogers, Yea;
No.1792	Mr. Jones, Yea
M 514 08	A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 3:35 p.m. Motion Adopted by Voice Vote.
Adjourn	

Respectfully submitted,

Robin A. Griffith
Clerk of the Council