



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 31, 2007

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 31, 2007 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
Rebecca Trefillis	Assistant County Attorney

M 440 07 Approve Agenda

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda by deleting "Resolution – Sussex County Citizens Corp" and "Temporary Wastewater Service Agreements, A. The Reserves at Lewes Landing, B. Windstone"; 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 441 07 Approve Minutes

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of June 26, 2007.

Motion Adopted: 5 Yeas.

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

Corre- spondence

Mr. Griffin read the following correspondence:

NANTICOKE AMATEUR RADIO CLUB, INC. AND SUSSEX AMATEUR RADIO ASSOCIATION, SEAFORD, DELAWARE.

RE: Letter thanking the Council for its support on June 24th at the Field Day Event.

**District 3/
World
Series
District 3
(continued)**

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. He noted that this is the fourth consecutive year that they will host the event in Sussex County. Opening ceremonies will be held on August 5th at 3:30 p.m. ESPN will be broadcasting the championship game on August 11th at 2:00 p.m.; this will be the first amateur sporting event televised on ESPN. Mr. Donovan reported that they are expecting an attendance exceeding 18,000 people.

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

**M 442 07
Adopt
Procla-
mation**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt the Proclamation entitled “PROCLAIMING THE FIRST WEEKEND OF AUGUST 2007 AS A TIME TO HONOR THE HISTORIC TOWN OF MILTON, DELAWARE”.

Motion Adopted: 5 Yeas.

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

**Proposed
Lease
Assignment**

Mr. Baker presented a Proposed Airport Restaurant Lease Assignment and a recommendation for the ownership transfer of the Airport Restaurant Lease from Larry Kelley and Lori Thomsen to James Taylor. Mr. Godwin explained and distributed the transfer of ownership documents.

**M 443 07
Approve
Lease
Assignment/
Airport
Restaurant**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, that the Sussex County Council approves the Stock Ownership Transfer of the Airport Restaurant Corporation, T/A Flight Deck Restaurant, as per Leases dated April 4, 2006, located on the Sussex County Airport in the Main Terminal Building; this Stock Ownership Transfer shall take place within the next thirty days between the current owner, Larry Kelley, and the new owner, James Taylor, contingent on the following:

- A. A copy of the Stock Transfer Agreement**
- B. Financial Statement from James Taylor**
- C. Current insurance documents as per leases.**
- D. All rents and expenses paid up to current billing.**
- E. Modifications to the existing leases:**

- M 443 07
(continued)
1. Suspend Lease on Unit #4, the Banquet Room, for up to six months, not to extend beyond February 1, 2008.
 2. In Leases for Unit No. 5 and No. 6 under Paragraph 7, Utilities, add the following language: “Landlord shall provide tenant with gas service until January 31, 2008”.
- F. All documents approved by the County Attorney and the County Finance Director.

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinance/
Sheriff Fees

Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE IV § 62-15 RELATING TO FEES CHARGED BY THE SHERIFF”. The Proposed Ordinance will be advertised for Public Hearing.

Adminis-
trator’s
Report

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

1. Certificate of Achievement for Excellence in Financial Reporting – June 30, 2006

We are pleased to announce that the Sussex County Council has received, for the fifth year in a row, the Certificate of Achievement for Excellence in Financial Reporting. This award is only given to governments who achieve the highest standards in government accounting and financial reporting by the Government Finance Officers Association. Notice of the award was received on July 30, 2007.

We would like to commend our County staff and auditors for the hard work that has resulted in receipt of this award. Recognition to staff will occur at a later County Council meeting.

2. Angola Sewer Public Meeting

On August 4, 2007, at 9:00 a.m., a public meeting will be held by the County to further explain the proposed Angola Neck Sewer District. The meeting will be followed by a referendum to be held on Saturday, August 18, 2007, from 8:00 a.m. to 3:00 p.m. at the Lewes-Rehoboth Fire Station No. 3 on Route 24. The August 4 meeting will be held at American Legion Post No. 28, 31768 Legion Road and Route 24, east of Millsboro. Please contact the County Engineering Department for information at 855-7839.

Adminis-
trator's
Report
(continued)

3. Register of Wills Office Move

On August 6, 7, and 8, 2007, the Sussex County Register of Wills office will be moving from the Court of Chancery building on The Circle to the J. P. Court No. 14 and State Law Library building. The office will be closed August 6, 7, and 8 during the move.

4. County Tax Bills

County tax bills totaling \$96 Million are in the process of being mailed to Sussex County property owners. This billing for the 2007-2008 year includes \$12.3 Million in County property, library, and capitation taxes; \$79.9 Million is billed for school, property, and capitation taxes. Bills are due September 30, 2007.

5. University of Delaware Low Impact Design Meetings

Three public meetings will be held in Room 104 of the Cannon Building at the University of Delaware's Hugh R. Sharp Campus, 700 Pilottown Road, Lewes, Delaware. These meetings concern finding options to better protect water quality in the County. The meetings will be held on Monday, August 6, 2007, 6:30 to 8:00 p.m.; Tuesday, August 7, 2007, 1:00 to 7:00 p.m.; and Wednesday, August 8, 2007, 6:30 to 8:00 p.m. For more information, call 302-645-4235 or e-mail Mr. Jim Falk at Jfalk@udel.edu.

6. Beneficial Acceptance

The Engineering Department granted Beneficial Acceptance to Walker Acres, Agreement No. 624, on July 24, 2007. The developer is Ship Builders, L.L.C., and the project is located west of County Road 213 and south of Route 16 on Pin Oak Street in the Ellendale Sanitary Sewer District, consisting of the installation of main line sewer for 12 single-family lots and DelDOT road. Included with this report is a fact sheet on the project.

Resolution/
New Bank
Account

Mrs. Webb presented a Proposed Resolution authorizing the open of a new Bank Account for the Johnson's Corner Sewer Construction Account; the new account would be opened at Citizens Bank.

M 444 07
Adopt
Resolution
No.
R 018 07

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Resolution No. R 018 07 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE CITIZENS BANK BEARING THE SIGNATURES OF ANY TWO OF DALE R. DUKES, PRESIDENT; FINLEY B. JONES, JR., 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. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

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

M 445 07
Approve
Wastewater
Agreement/
Estate of
Fairway
Village

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 681, that the Sussex County Council authorizes its President to execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Estate of Fairway Village, LLC for wastewater facilities to be constructed in Estates of Fairway Village Subdivision, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

South
Coastal
Library/
Lease for
Temporary
Relocation

Michael Izzo, County Engineer, presented a Proposed Lease for a temporary relocation of the South Coastal Library during construction. The proposed site is located at the Creekside Plaza on Route 26 in Millville where ample parking is available. The cost of the lease would be \$3,266.00 monthly for fifteen months; the lease could be extended for six months on a month to month basis. Mr. Izzo stated that a 13-month construction period is anticipated.

M 446 07
Approve
Lease
Agreement
for the
Temporary
Relocation
of the
South
Coastal
Library

A Motion was made by Mr. Jones, seconded by Mr. Rogers, based on the recommendation of the County Engineering Department, that the Sussex County Council approves the Lease Agreement with J & N Hickman Family L.P. for the temporary relocation of the South Coastal Library during the construction phase of the expansion project.

Motion Adopted: 5 Yeas.

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

Old
Business/
Proposed
Ordinance/
Density

The Council considered the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 SECTION 22 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF DENSITY FOR MULTIFAMILY DWELLING STRUCTURES AND/OR TOWNHOUSES AND/OR TOWNHOMES IN AR-1 DISTRICTS WITHIN

Trade	COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE ACQUISITION AND PRESERVATION OF OPEN SPACE AND/OR ACTIVE AND/OR PASSIVE RECREATION AREAS”.
Old Business/ Proposed Ordinance/ Density Trade (continued)	<p>The Planning and Zoning Commission held a Public Hearing on this application on June 14, 2007 at which time they deferred action; on July 19, 2007, the Commission recommended approval of the Proposed Ordinance with the condition that Section 1 Subsection 8 be deleted (“Council and/or the County Administrator may consider and authorize an expedited review of a Conditional Use Application filed under this Section; and”).</p> <p>The County Council held a Public Hearing on the Proposed Ordinance on June 26, 2007.</p> <p>The Council discussed the Proposed Ordinance at length. Suggestions were made to defer action for additional information, i.e. watershed maps and a more specific definition of Open Space. A suggestion was also made to take out all reference to the Environmentally Sensitive Development District.</p>
M 447 07 Amend Proposed Ordinance/ Density Trade	<p>A Motion was made by Mr. Phillips, seconded by Mr. Jones, to amend the Proposed Ordinance by inserting the following phrase to Section 1 (3): “All such approvals by the Council shall be by a four-fifths majority vote and shall include a determination that the land and/or conservation easement to be acquired is located in the same watershed area as the land where the bonus density will be located”</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
M 448 07 Defer Action on Proposed Ordinance DENIED	<p>A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on the Proposed Ordinance and to ask the Planning & Zoning staff, as well as the County’s Land Use Consultant, for input to put together a better ordinance, incorporating the concerns and suggestions made on this date.</p> <p>Motion Denied: 3 Nays, 2 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Nay; Mr. Rogers, Yea; Mr. Jones, Nay; Mr. Dukes, Nay</p>
M 449 07 Amend Proposed Ordinance	<p>A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Proposed Ordinance by striking the following “Open Space” definition in Section 1 (6) – “which shall be unsubdivided land not containing any structures” and that Section 1 (6) shall read as follows: “The minimum</p>

Relating to Density Trade **percentage of the total site which shall be set aside as common open space shall be 40% of the total land area included in the application; and”.**

M 449 07 (continued) **Motion Adopted: 5 Yeas.**
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

M 450 07 Amend Proposed Ordinance Relating to Density Trade MOTION DENIED **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to amend the Proposed Ordinance by striking any reference to the Environmentally Sensitive District.**
Motion Denied: 3 Nays, 2 Yeas.
Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Nay;
Mr. Rogers, Yea; Mr. Jones, Nay;
Mr. Dukes, Nay

M 451 07 Adopt Ordinance No. 1920 **A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt Ordinance No. 1920 entitled “AN ORDINANCE TO AMEND CHAPTER 115 SECTION 22 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF DENSITY FOR MULTIFAMILY DWELLING STRUCTURES AND/OR TOWNHOUSES AND/OR TOWNHOMES IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE ACQUISITION AND PRESERVATION OF OPEN SPACE AND/OR ACTIVE AND/OR PASSIVE RECREATION AREAS”, with amendments made to Section 1, Item No. 3 and Item No. 6.**

Motion Adopted: 3 Yeas, 1 Nay, 1 Abstention.
Vote by Roll Call: Mr. Cole, Nay; Mr. Phillips, Yea;
Mr. Rogers, Abstained; Mr. Jones, Yea;
Mr. Dukes, Yea

Recess **Mr. Dukes called for a brief recess at 12:05 p.m.**

Reconvene **Mr. Dukes called the Council back into session at 12:10 p.m.**

Public Hearing/ DFSSD/ Piney **A Public Hearing was held to consider extending the Dagsboro – Frankford Sanitary Sewer District (DFSSD) to include all those certain lots, pieces or parcels of land, situated northerly and southerly of County Road 336, Piney Neck Road, and located on the Piney Neck Peninsula and in the Town of**

**Neck
Expansion
Proposal**

Dagsboro (the Piney Neck Expansion of the Dagsboro – Frankford Sanitary Sewer District).

**Public
Hearing/
DFSSD/
Piney
Neck
Expansion
Proposal
(continued)**

John Ashman, Director of Utility Planning, reported that the proposed expansion area encompasses approximately 850 acres; is situated along Piney Neck Road, south of Pepper Creek; and is contiguous to the Dagsboro – Frankford Sanitary Sewer District. The proposed expansion area includes a large area of County-owned lands, including the Piney Neck Treatment Facility and existing and future spray sites. The area also contains several proposed projects that consist of approximately 800 EDUs and some outlying parcels. Mr. Ashman reported that some of the proposed projects have gone through with proposals with private wastewater providers and that the County's Piney Neck Treatment Plant is already located on the peninsula. He also reported that there has been opposition to some of the proposed projects due to the idea of multiple treatment plants on the peninsula. Mr. Ashman advised that the Engineering Department has instructed Consulting Engineers to perform a special study of this area as part of the ongoing Dagsboro-Frankford Sanitary Sewer District. During the study, engineers from Whitman, Requardt & Associates and Stearns & Wheler identified a potential for additional capacity at the Piney Neck Treatment Plant. Mr. Ashman stated that they consider the capacity to be adequate for the proposed expansion and they are currently in the permitting process. The developers of the proposed projects would be subject to system connection charges per EDU.

Public comments were heard.

Mark Chura was present on behalf of HKS Four, a property owner (application with 122 approved units) in the proposed expansion area. Mr. Chura spoke in support of the expansion.

Rodney Wyatt was present on behalf of Artesian and spoke in support of the project.

Howard Fortunato of GST Group, spoke in support of the project and he questioned the costs. He was advised that the connection charge per EDU would be \$5,635, based on the current budget; that front footage costs would be \$1.52 per front foot, although front footage costs for new developments would be .65 per front foot (based on current rates); and that there would be an annual operating charge of \$252.48 per year per household.

Dan Kramer stated that, generally, he does not support central sewer; however, in this case, he does support it.

Phillip Krolczyk questioned if all the properties will have to hook up. He was advised that the District could be expanded to include additional properties by going through the County's process for inclusion in a sewer district.

**Public
Hearing/
DFSSD/
Piney
Neck
Expansion
Proposal
(continued)**

Michael Izzo, County Engineer, explained that the entire Piney Neck Peninsula is in the Dagsboro – Frankford Sanitary Sewer District Planning Area because the 1999 Comprehensive Plan cited this area as part of the Environmentally Sensitive Developing District. Therefore, the Department sizes the infrastructure to be able to serve the entire Peninsula at some time in the future. He noted that there is an agricultural exemption.

Jeff Franz with Paradise Property, LLC and developer of the Pepper Creek Point Property (171 proposed units) spoke in favor of the proposed expansion.

Eddie Dason spoke in support of the proposed expansion. He stated that he would prefer to see the County provide sewer service instead of having several small treatment plants serve the area.

Martha Hoffman spoke in opposition to the expansion. She stated that she owns the property across from the Land Trust; that there are currently 692 units proposed in the area; that this will create more traffic on Piney Neck Road; that the road does not support the existing traffic; and she questioned why the developers would not pay for her home to be hooked up to sewer since she is located right in the middle of it.

Jan Thompson stated that her property abuts the Land Trust property and she questioned if hook-up is mandatory. She was advised that a homeowner has a year to hook up after the service becomes available and that a connection point will be provided to her property line.

David Ennis expressed concern about the costs and the billing process. He stated that he is concerned about the costs since he is retired and on a fixed income. He was advised that the one-time connection fee would be \$5,635; however, the more infrastructure installed by the developer, the cheaper the cost to the landowners. He was also advised that the front foot assessment would be \$1.52 or less. Mr. Izzo stated that it does not look as if the infrastructure to be installed by the developer will get to Mr. Ennis' property.

Steve Lewis questioned why they weren't notified about the proposed expansion and why his property is not included in the expansion. He stated that the disposal site will be near his property and he expressed concern about odors.

Mr. Izzo stated that in the future, the Engineering Department would include a notification to landowners adjacent to a proposed district.

Mrs. VonBanc questioned the location of the proposed spray fields and how it would affect their wells.

Mr. Izzo stated that test wells would have to be monitored and wells

monitored forever for the quality of the groundwater.

The Public Hearing was closed.

- M 452 07**
Defer
Action on
DFSSD/
Piney
Neck
Expansion
Proposal
- A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action for two weeks on the Dagsboro–Frankford Sanitary Sewer District Piney Neck Expansion.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- M 453 07**
Recess
- At 12:55 p.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to recess for 15 minutes. Motion Adopted by Voice Vote.**
- Reconvene**
- Mr. Dukes called the Council back into session at 1:18 p.m.**
- Grants**
- Mrs. Webb presented grant requests for the Council’s consideration.**
- M 454 07**
Youth
Activity
Grant
- A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500.00 (\$250.00 each from Mr. Dukes’ and Mr. Phillips’ Youth Activity Grant Accounts) to the Laurel Little League for travel expenses.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- M 455 07**
Community
Investment
Grant
- A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$5,000.00 from Mr. Rogers’ Community Investment Grant Account to the Milton Community Foundation for the John Milton Statue Project.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- M 456 07**
County
Council
Grant
- A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$2,500.00 from County Council Grants to the Ronald McDonald House of Delaware to offset housing costs for families.**
- Motion Adopted: 5 Yeas.**

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

Tabled The funding request from NCALL was tabled.

M 457 07 Councilmanic Grant A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 from Mr. Dukes' Councilmanic Grant Account to the City of Seaford for their Annual Community Night Out Against Crime and Drugs.

Motion Adopted: 5 Yeas.

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

M 458 07 Councilmanic Grant A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$500.00 from Mr. Dukes' Councilmanic 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. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

M 459 07 Youth Activity Grant A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$100.00 from Mr. Cole's Youth Activity Grant Account to the Delmarva Christian High School for Rachel Lins' attendance at the National Youth Leadership Forum on Law.

Motion Adopted: 5 Yeas.

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

M 460 07 Youth Activity Grant A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$100.00 from Mr. Phillips' Youth Activity Grant Account to the Selbyville Middle School for Abigail Brown's attendance at the People to People World Leadership Forum.

Motion Adopted: 5 Yeas.

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

M 461 07 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give

Community Investment Grant **\$2,500.00 from Mr. Cole’s Community Investment Grant Account to Woodlyn Estates for the installation of three fire hydrants.**

Motion Adopted: 5 Yeas.

M 461 07 (continued) **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

M 462 07 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 from Mr. Jones’ Councilmanic Grant Account to the Town of Greenwood for the Big Saturday Event.**

Motion Adopted: 5 Yeas.

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

M 463 07 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Rogers’ and Mr. Jones’ Councilmanic Grant Accounts) to Milford Community Parades, Inc. for parade expenses.**

Motion Adopted: 5 Yeas.

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

M 464 07 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Delaware Army National Guard to help underwrite their Youth Camp.**

Motion Adopted: 5 Yeas.

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

M 465 07 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Rogers’ and Mr. Jones’ Councilmanic Grant Accounts) to the Chamber of Commerce for Greater Milford for the Riverwalk “Freedom” Festival.**

Motion Adopted: 5 Yeas.

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

Mr. Dukes, Yea

M 466 07 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$200.00 from Mr. Dukes' Councilmanic Grant Account to the Mrs. Delaware America Pageant for Buffy Parker, Mrs. Sussex County.

M 466 07 (continued) Motion Adopted: 5 Yeas.

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

M 467 07 Community Investment Grant A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$5,000.00 from Mr. Jones' Community Investment Grant Account to the Georgetown Boys & Girls Club to support the Annual Fund for Kids – One Campaign.

Motion Adopted: 5 Yeas.

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

M 468 07 Community Investment Grant A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$2,500.00 from Mr. Rogers' Community Investment Grant Account to the Milton Seniors Organization, Inc. for operating expenses.

Motion Adopted: 5 Yeas.

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

M 469 07 Councilmanic Grant A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$1,000.00 (\$200.00 from each Councilmanic Grant Account) to the First State Antique Tractor Club, Inc. for their annual show.

Motion Adopted: 5 Yeas.

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

M 470 07 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to Del-Mar-Va Forest No. 201 for their Muscular Dystrophy fundraiser.

Motion Adopted: 5 Yeas.

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

**Old
Business/
(C/Z
No. 1610)**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 41.94 ACRES, MORE OR LESS” (Change of Zone No. 1610) filed on behalf of Burton’s Pond Communities, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on February 22, 2007 at which time they deferred action; on March 15, 2007 the Commission recommended that the application be denied based on the following reason: “the site is not appropriate for this project”.

The County Council held a Public Hearing on this application on March 13, 2007 at which time they deferred action.

Lawrence Lank, Director of Planning & Zoning, submitted and read proposed conditions and findings of facts for the Council’s consideration.

**M 471 07
Adopt
Ordinance
No. 1919
(C/Z
No. 1610)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1919 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 41.94 ACRES, MORE OR LESS” (Change of Zone No. 1610) filed on behalf of Burton’s Pond Communities, LLC. , with the following conditions:

- 1. There shall be no more than 102 multi-family units within the Development.**
- 2. The Applicant shall form a condominium association which will be part of the Burton Pond Communities Homeowners Association to be responsible for the maintenance of streets, roads, buffers, storm water management facilities, and other common areas including an Environmental Management Plan for Burton's Pond as stated in Condition No. 15.**
- 3. The development shall be served by a central sewer system as defined by the Sussex County Zoning Ordinance, designed in**

**M 471 07
Adopt
Ordinance
No. 1919
(C/Z
No. 1610)
(continued)**

- accordance with the Sussex County Engineering Department specifications and in conformity with all DNREC regulations.
4. The development shall be served by a publicly regulated central water system providing drinking water and fire protection as required by applicable regulations.
 5. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. The Applicant, its successors and assigns shall operate the storm water management facilities utilizing Best Management Practices to provide groundwater recharge.
 6. All entrances, intersections, roadway improvements and multi-modal facilities required by DeIDOT shall be completed by the Applicant as required by DeIDOT.
 7. The recreational amenities shall be constructed and open to use by residents within two years of the issuance of the first residential building permit.
 8. Street lighting shall be provided and the location of the streetlights shall be shown on the Final Site Plan.
 9. Sidewalks shall be installed on both sides of all streets within the Development and shall be shown on the Final Site Plan.
 10. The undisturbed forested areas shall be shown on the Final Site Plan.
 11. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
 12. A school bus stop area with parking shall be located within the development. The Developer shall coordinate and cooperate with the local school district's transportation manager to establish the school bus stop area. The location of the bus stop area, with the approval of the local school district, shall be shown on the Final Site Plan.
 13. The Applicant shall provide agricultural buffers and wetland buffers in accordance with the applicable regulations.
 14. As represented by the Applicant, the Developer shall make application to participate in the Sussex County Moderately Priced Housing Units (MPHU) Program and will designate twenty (20) of the 102 approved units as "MPHU" in accordance with the Ordinance.
 15. The Applicant shall establish an Environmental Management Plan for Burton's Pond including designing and implementing monitoring and management strategies for the pond and its watershed. This responsibility shall be transferred to the Homeowners Association and an adequate budget shall be established to accomplish the intent of the plan.
 16. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.
 17. The Developer shall design and install a landscape buffer of berms and plantings running South to North along the entire

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No. 1919
(C/Z
No. 1610)
(continued)**

- property boundary with Route 24.
18. The Developer shall design and install a landscape buffer of berms and plantings running East to West along the entire property boundary with the relocated Sloan Road.
 19. The Developer shall install a six (6) foot beige vinyl fence along the East to West boundary where the proposed building area is closest to the Brandywood Community.
 20. As represented by the Applicant the use of Burton Pond shall be subject to the following conditions:
 - a) Watercraft shall be limited to fishing boats with electric motors and non-motorized watercraft.
 - b) Fishing shall be limited to catch and release, except for State designated citation fish.
 - c) Watercraft use of Burton Pond by community residents shall be limited to a maximum of 30 watercraft at any one time. The Homeowners Association will establish a system of ownership or registration to implement this policy.
 - d) Hunting will not be permitted on Burton Pond. Signs will be posted.
 - e) Public access to Burton Pond shall be provided.
 21. The interior street design shall be in accordance with or exceed Sussex County street requirements and/or specifications. Street design shall include curbs, sidewalks, and street lighting.
 22. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.
 23. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur from Monday through Friday and only between the hours of 7:00 a.m. and 6:00 p.m.
 24. The Agricultural Use Notice shall be included in condominium documents or instruments of conveyance.
 25. Site plan review by the Planning and Zoning Commission shall be required for the Master Plan and each phase of the proposed development.
 26. The RPC shall expire after 5 years, if not substantially underway, as provided by 99-40 E of the Subdivision Ordinance to be similar to a subdivision application.
 27. The existing cemetery shall be maintained and protected by the Developer and/or the Homeowners Association and shall be designated on the Final Site Plan.

Motion Adopted: 3 Yeas, 2 Nays.

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

Mr. Dukes, Yea

**Old
Business
(C/U
No. 1724)
Old
Business
(C/U
No. 1724)
(continued)**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SEWAGE TREATMENT PLANT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 74.61 ACRES, MORE OR LESS” (Conditional Use No. 1724) filed on behalf of North Milton Development Group II.

The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2007 at which time they deferred action; on July 18, 2007 the Commission recommended that the application be approved with conditions.

The County Council held a Public Hearing on this application on February 13, 2007 at which time they deferred action.

**M 472 07
Defer
Action on
C/U
No. 1724**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Conditional Use No. 1724 until the conclusion of the public hearings on this date.

Motion Adopted: 4 Yeas, 1 Absent.

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

(Mr. Phillips was out of the room during the vote.)

**Old
Business
(C/U
No. 1725)**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF SLUDGE, TREATED SLUDGE OR ANY MATERIAL CONTAINING THESE MATERIALS BY SPRAY IRRIGATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL AND CEDAR CREEK HUNDREDS, SUSSEX COUNTY, CONTAINING 1,739.779 ACRES, MORE OR LESS” (Conditional Use No. 1725) filed on behalf of Harry Isaacs, Jr.

The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2007 at which time they deferred action; on July 18, 2007 the Commission recommended that the application be approved with conditions.

The County Council held a Public Hearing on this application on February 13, 2007 at which time they deferred action.

At the request of Mr. Rogers, there was a consensus to strike No. 4 and No. 5 of the Conditions recommended by the Commission, as follows:

- 4. There shall be no spray irrigation within 30 feet of all property lines.**
- 5. The application of treated wastewater shall be from center-pivot or similar type spray irrigation rigs only.**

(continued)

**M 473 07
Defer
Action
on
C/U
No. 1725**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on Conditional Use No. 1725 until the conclusion of the Public Hearings on this date.

Motion Adopted: 5 Yeas.

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

**Old
Business
(C/Z
No. 1615)**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 35.70 ACRES, MORE OR LESS” (Change of Zone No. 1615) filed on behalf of North Milton Development Group II.

The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2007 at which time they deferred action; on July 18, 2007 the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on February 13, 2007 at which time they deferred action.

**M 474 07
Adopt
Ordinance
No. 1924
(C/Z
No. 1615)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1924 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 35.70 ACRES, MORE OR LESS” (Change of Zone No. 1615) filed on behalf of North Milton Development Group II.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Old
Business
(C/Z
No. 1616)**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 56.48 ACRES, MORE OR LESS” (Change of Zone No. 1616) filed on behalf of North Milton Development Group II and 1630 Ventures, L.L.C.

**Old
Business
(C/Z
No. 1616)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2007 at which time they deferred action; on July 18, 2007 the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on February 13, 2007 at which time they deferred action.

**M 475 07
Adopt
Ordinance
No. 1925
(C/Z
No. 1616)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1925 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 56.48 ACRES, MORE OR LESS” (Change of Zone No. 1616) filed on behalf of North Milton Development Group II and 1630 Ventures, L.L.C.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Old
Business
(C/Z
No. 1617)**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-RPC HIGH DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 435.67 ACRES, MORE OR LESS” (Change of Zone No. 1617) filed on behalf of North Milton Development Group I and North Milton Development Group II.

The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2007 at which time they deferred action; on July 18, 2007 the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on February 13, 2007 at which time they deferred action.

Mr. Rogers suggested and it was agreed that Condition No. 8, as recommended by the Planning and Zoning Commission, should include a reference to the conditions set forth in Conditional Use No. 1724 and Conditional Use No. 1725, to read as follows:

Old
Business
(C/Z
No. 1617)

The RPC shall be served by a wastewater treatment facility and collection system built and maintained in accordance with the requirements of DNREC and all other Federal, State and local agencies, as conditioned in Conditional Use Nos. 1724 and 1725.

(continued)

The Council discussed Condition No. 20, as recommended by the Planning and Zoning Commission (“All single family lots within the development shall be no less than 7,500 square feet in size and not less than 60 feet wide.”)

M 476 07
Amend
Recom-
mended
Conditions

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend Condition No. 20 by reducing the minimum lot size from 7,500 square feet to 4,500 square feet.

Motion Adopted: 4 Yeas, 1 Nay.

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

M 477 07
MOTION
DIED

A Motion was made by Mr. Phillips to amend Condition No. 20 by also reducing the lot size from 60 feet wide to 45 feet wide. The Motion died for the lack of a Second.

M 478 07
Adopt
Ordinance
No. 1926
(C/Z
No. 1617)

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1926 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-RPC HIGH DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 435.67 ACRES, MORE OR LESS” (Change of Zone No. 1617) filed on behalf of North Milton Development Group I and North Milton Development Group II, with the following conditions:

1. The maximum number of dwelling units shall not exceed 1,676 of which no less than 1,210 shall be single family lots or detached townhouses.
2. Except for community civic facilities, there shall be no commercial uses within the RPC. Within the RPC, there shall be adequate space set aside and dedicated for public use to serve the residents of this project and the residents of the County. The location of this space shall be shown on the Master Plan.

**M 478 07
Adopt
Ordinance
No. 1926
(C/Z
No. 1617)
(continued)**

3. The construction of the entire project shall be phased over a period of 15 years, with no more than 200 building permits being issued within any given calendar year, commencing on the date of final approval of this application by the Sussex County Council.
4. Site Plan review is required for the Master Plan and each phase of the proposed development, including the location of curbs, sidewalks, street lights and all buffers.
5. No more than 250 building permits shall be issued for residential units within the proposed development before a definitive location and all infrastructure improvements required to support a public safety building for fire, police and medical services are made available within the proposed development. The location and size of this area shall be coordinated with these service providers and shown on the Master Plan.
6. All entrances, intersections, roadways and multi-modal improvements shall be constructed as required by DelDOT. Interior street design, including curbs, sidewalks and street lighting shall be in accordance with or exceed Sussex County street design requirements.
7. Recreational facilities for each separate phase of the development, as indicated in the Phasing Plan for the development, shall be constructed and open to use by the residents of that phase prior to the issuance of any building permit for any subsequent phase of the development.
8. The RPC shall be served by a wastewater treatment facility and collection system built and maintained in accordance with the requirements of DNREC and all other Federal, State and local agencies, as conditioned in Conditional Use Nos. 1724 and 1725.
9. The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
10. Central gas service for the development shall be permitted subject to approval by the Office of the State Fire Marshal and other agencies having jurisdiction. The location of any storage tanks shall be shown on the Master Site Plan.
11. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. Best Management Practices shall be used in the operation and maintenance of the systems.
12. State and Federal wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas, except as may be authorized by valid Federal or State permit.
13. A set of comprehensive covenants and restrictions shall be recorded and a master homeowners or condominium association shall be formed with subsidiary homeowners or

**M 478 07
Adopt
Ordinance
No. 1926
(C/Z
No. 1617)
(continued)**

condominium associations for each sub-community within the development to provide for proper management and governance of the entire development, including perpetual obligations for the upkeep, maintenance, repair and replacement of all streets, sidewalks, buffers, stormwater management facilities, passive and active open spaces, recreational facilities, and other common areas.

14. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
15. Agricultural buffers shall be provided by applicable State and County requirements. The location of these buffers shall be shown on all Site Plans.
16. The Agricultural Use Notice shall be included in all Restrictive Covenants and Condominium Declarations.
17. The Applicant shall coordinate and cooperate with the local school district's transportation manager to establish school bus stop areas. The areas of these bus stops, with the approval of the local district, shall be shown on the Master Site Plan.
18. The Applicant shall cooperate and coordinate with the State and County Emergency Preparedness Offices to develop and implement an Emergency Evacuation Plan.
19. Subject to DeIDOT's approval, the Developer shall pave the shoulders on both sides of Route 30 to insure the safe passage of farming equipment.
20. All single family lots within the development shall be no less than 4,500 square feet in size and not less than 60 feet wide.
21. The location of all Moderately Priced Housing Units (MPHUs) shall be shown on each of the Site Plans, including the Master Plan and Phasing Plan. The MPHUs shall be coordinated through the Sussex County Community Development Office. There shall be a total of at least 400 MPHUs located within this RPC and Change of Zone No. 1618.
22. Subject to DeIDOT's approval, all construction entrances shall be from Route 30.
23. DART shall be consulted prior to submission of the Master Plan, with the location of the potential DART transportation stop shown on the Master Plan.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Old
Business**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL

(C/Z
No. 1618)

DISTRICT TO A HR-RPC HIGH DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 226.41 ACRES, MORE OR LESS” (Change of Zone No. 1618) filed on behalf of North Milton Development Group II and 1630 Ventures, L.L.C.

**Old
Business
(C/Z
No. 1618)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on January 25, 2007 at which time they deferred action; on July 18, 2007, the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on February 13, 2007 at which time they deferred action.

It was the consensus of the Council that Condition No. 9, as recommended by the Planning and Zoning Commission, should include a reference to the conditions set forth in Conditional Use No. 1724 and Conditional Use No. 1725, as follows:

The RPC shall be served by a wastewater treatment facility and collection system built and maintained in accordance with the requirements of DNREC and all other Federal, State and local agencies, as conditioned in Conditional Use Nos. 1724 and 1725.

It was the consensus of the Council that Condition No. 21, as recommended by the Planning and Zoning Commission, should be amended by reducing the minimum lot size from 7,500 square feet to 4,500 square feet.

**M 479 07
Adopt
Ordinance
No. 1927
(C/Z
No. 1618)**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Ordinance No. 1927 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HR-RPC HIGH DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 226.41 ACRES, MORE OR LESS” (Change of Zone No. 1618) filed on behalf of North Milton Development Group II and 1630 Ventures, L.L.C., with the following conditions:

- 1. The maximum number of dwelling units shall not exceed 1,004 of which no less than 550 shall be single family lots or detached townhouses.**
- 2. Except for community civic facilities, there shall be no commercial uses within the RPC. Within the RPC, there shall be adequate space set aside and dedicated for public use to serve the residents of this project and the residents of the County. The location of this space shall be shown on the Master Plan.**
- 3. The construction of the entire project shall be phased over a**

**M 479 07
Adopt
Ordinance
No. 1927
(C/Z
No. 1618)
(continued)**

period of 15 years, with no more than 200 building permits being issued within any given calendar year, commencing on the date of final approval of this application by Sussex County Council.

4. Site Plan review is required for the Master Plan and each phase of the proposed development, including the location of curbs, sidewalks, street lights and all buffers.
5. No more than 250 building permits shall be issued for residential units within the proposed development before a definitive location and all infrastructure improvements required to support a public safety building for fire, police and medical services are made available within the proposed development. The location and size of this area shall be coordinated with these service providers and shown on the Master Plan.
6. The Developer shall set aside approximately 30 acres within the proposed development adjacent to the existing school district property for the future use of the local school district.
7. All entrances, intersections, roadway and multi-modal improvements shall be constructed as required by DelDOT. Interior street design, including curbs, sidewalks and street lighting shall be in accordance with or exceed Sussex County street design requirements.
8. Recreational facilities for each separate phase of the development, as indicated in the Phasing Plan for the development, shall be constructed and open to use by the residents of that phase prior to the issuance of any building permit for any subsequent phase of the development.
9. The RPC shall be served by a wastewater treatment facility and collection system built and maintained in accordance with the requirements of DNREC and all other Federal, State and local agencies, as conditioned in Conditional Use Nos. 1724 and 1725.
10. The RPC shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
11. Central gas service for the development shall be permitted subject to approval by the Office of the State Fire Marshal and other agencies having jurisdiction. The location of any storage tanks shall be shown on the Master Site Plan.
12. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements. Best Management Practices shall be used in the operation and maintenance of the systems.
13. State and Federal wetlands shall not be included in individual lots. State and Federal wetlands shall be maintained as non-disturbance areas, except as maybe authorized by valid Federal or State permit.

**M 479 07
Adopt
Ordinance
No. 1927
(C/Z
No. 1618)
(continued)**

14. A set of comprehensive covenants and restrictions shall be recorded and a master homeowners or condominium association shall be formed with subsidiary homeowners or condominium associations for each sub-community within the development to provide for proper management and governance of the entire development, including perpetual obligations for the upkeep, maintenance, repair and replacement of all streets, sidewalks, buffers, stormwater management facilities, passive and active open spaces, recreational facilities, and other common areas.
15. Road naming and addressing shall be subject to the review and approval of Sussex County Mapping and Addressing Department.
16. Agricultural buffers shall be provided by applicable State and County requirements. The location of these buffers shall be shown on all Site Plans.
17. The Agricultural Use Notice shall be included in all Restrictive Covenants and Condominium Declarations.
18. The Applicant shall coordinate and cooperate with the local school district's transportation manager to establish school bus stop areas. The areas of these bus stops, with the approval of the local district, shall be shown on the Master Site Plan.
19. The Applicant shall cooperate and coordinate with the State and County Emergency Preparedness Offices to develop and implement an Emergency Evacuation Plan.
20. As stated by the Applicants, subject to DeIDOT's approval, the Developer shall pave the shoulders on both sides of Route 30 to insure the safe passage of farming equipment.
21. All single family lots within the development shall be no less than 4,500 square feet in size and not less than 60 feet wide.
22. The location of all moderately priced housing units (MPHUs) shall be shown on each of the Site Plans, including the Master Plan and Phasing Plans. The MPHUs shall be coordinated through the Sussex County Office of Community Development. There shall be a total of at least 400 MPHUs located within this RPC and Change of Zone No. 1617.
23. Subject to DeIDOT's approval all construction entrances shall be from Route 30.
24. DART shall be consulted prior to submission of the Master Plan, with the location of the potential DART transportation stops shown on the Master Plan.

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 480 07
Adopt
Ordinance
No. 1922**

**M 480 07
Adopt
Ordinance
No. 1922
(C/U
No. 1724)
(continued)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1922 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SEWAGE TREATMENT PLANT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 74.61 ACRES, MORE OR LESS” (Conditional Use No. 1724) filed on behalf of North Milton Development Group II, with the following conditions:

1. The proposal regional Sewage Treatment Plant and its collection and disposal systems shall be reviewed and approved by DNREC and shall be designed and constructed in accordance with all other applicable Federal, State and County requirements, including those mandated by DNREC and other agencies having jurisdiction over same.
2. Because the Applicant did not apply for a water treatment plant as part of this conditional use, one shall not be permitted on this site unless approved under a separate conditional use application.
3. The treatment plant building shall appear to be an agricultural building.
4. 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, if any, and 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.
5. There shall be forested buffers of at least 30 feet from all property lines. Any lagoons, Rapid Infiltration Basins or similar structures shall be located at least 100 feet from any dwellings.
6. One lighted sign shall be permitted on each site, not to exceed 32 square feet in size.
7. With the exception of emergency generators that may be 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. 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, Nay; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

M 481 07

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1923 entitled “AN ORDINANCE TO GRANT A

**Adopt
Ordinance
No. 1923
(C/U
No. 1725)**

CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF SLUDGE, TREATED SLUDGE OR ANY MATERIAL CONTAINING THESE MATERIALS BY SPRAY IRRIGATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL AND CEDAR CREEK HUNDREDS, SUSSEX COUNTY, CONTAINING 1,739.779 ACRES, MORE OR LESS” (Conditional Use No. 1725) filed on behalf of Harry Isaacs, Jr., with the following conditions:

**M 481 07
Adopt
Ordinance
No. 1923
(C/U
No. 1725)
(continued)**

- 1. The use shall be reviewed and approved by DNREC and shall be designed and constructed in accordance with all other applicable Federal, State and County requirements, including those mandated by DNREC and other agencies having jurisdiction over it.**
- 2. Any structures on the properties that are part of this application shall appear to be an agricultural building.**
- 3. All improvements for transmission and disposal of treated waste water shall be constructed and maintained in accordance with the requirements of the Sussex County Engineering Department, if any, and 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.**
- 4. The wastewater applied to the land shall be treated to a level permitting “unlimited public access”.**
- 5. No lagoons or storage of wastewater or sludge shall be permitted on the properties that are the subject of this conditional use.**
- 6. The irrigation rates shall be determined by crop utilization and uptake limits rather than by wastewater disposal needs.**
- 7. 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, Nay; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

**Additional
Business**

Daniel Kramer congratulated the Council on the adoption of the Cluster Density Trade Ordinance and he commented on Mr. Cole’s opinion of the Ordinance.

**Workshop
Meeting**

Mr. Dukes announced that a Workshop Meeting would be held at the West Complex Building on this date at 5:00 p.m. (dinner); 5:30 p.m. (presentation of and discussion on the Draft Land Use Plan Update).

M 482 07

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to adjourn at 3:06 p.m. Motion Adopted by Voice Vote.

Adjourn

Respectfully submitted,

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