



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 5, 2008

**Call to Order** A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 5, 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
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
James D. Griffin	County Attorney

**M 549 08** A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the 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

**Corre-spondence** Mr. Griffin read the following correspondence:

**RICHARD ELLIOTT, DELAWARE ARMY NATIONAL GUARD, GEORGETOWN, DELAWARE.**

**RE:** Letter thanking the Council for its past support and requesting financial assistance for the 2008 Delaware National Guard Youth Camp.

**HELEN WILLIAMS, PRESIDENT, FRIENDS OF THE GEORGETOWN PUBLIC LIBRARY, GEORGETOWN, DELAWARE.**

**RE:** Letter in appreciation of the Council's \$250.00 grant for their Race/Walk Fundraiser.

**TERRY JESTER, FIRE CHIEF, MEMORIAL FIRE COMPANY, SLAUGHTER BEACH, DELAWARE.**

**RE:** Email to Joe Thomas, Director of Emergency Operations, commanding "the crew" (J. R. Clark, Jason Boyce, George Bixby and Dave Perrine) for their work during the water rescue event on July 30th.

**Administrator's  
Report**

**THE OFFICERS AND MEMBERS OF THE GEORGETOWN FIRE COMPANY, INC., GEORGETOWN DELAWARE.**

**RE: Letter thanking the Council for its donation in support of their Annual Golf Tournament Fundraiser.**

**Mr. Godwin read the following information in the County Administrator's Report:**

**1. Delaware State Police Report for June 2008**

Attached was a copy of the June 2008 report from the Delaware State Police. As per the report, 4,587 complaints were processed in Sussex County during the month. There were 1,196 criminal arrests and 4,210 traffic arrests during the month.

**2. Beneficial Acceptance**

The Engineering Department granted Beneficial Acceptance to Fairway Village, Phase I, Agreement No. 681, on July 29, 2008. The developer is the Estates of Fairway Village, L.L.C., and the project is located in the Town of Ocean View at County Road 84 and County Road 368 in the Millville Expansion of the Bethany Beach Sanitary Sewer District. The development consists of 30 single-family homes, eight town homes, and the community area. Included with this report was a fact sheet on the project.

**3. Building Code – Hilti Firestop Seminar**

Attached was a copy of a notice regarding a free seminar sponsored by the County Building Code Department. The seminar will occur in the County Council Chambers on August 14, 2008, at 9:00 a.m. regarding firestops. Please contact Mr. Andy Wright at 855-7860 for further information. This seminar is open to the public including contractors, town inspectors, etc.

**4. Wi-Fi Connection Access at The Circle in Georgetown**

As per the attached News Release, the Sussex County Information Systems Department has worked to provide access to the worldwide web through Wi-Fi connections in downtown Georgetown. There is no charge for this service. There is no additional cost to the County for providing this service to offer wireless Internet access on The Circle in Georgetown.

**Local  
Law  
Enforce-  
ment  
Grant**

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

**Dagsboro**

**\$25,000.00**

**Police Vehicle and  
Motorola Mobile Radio**

**Requests**

	<b>Fenwick Island</b>	<b>\$25,000.00</b>	<b>Police Vehicle and Equipment</b>		
	<b>Milford</b>	<b>\$ 2,757.65</b>	<b>(7) EO Tech 512.A65/1 Holographic Weapon Sight</b>		
<b>(continued)</b>	<b>Bethany Beach</b>	<b>\$25,000.00</b>	<b>Police Vehicle with Accessories</b>		
<b>M 550 08 Approve Local Law Enforce- ment Grants</b>	<b>A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the Local Law Enforcement Grants to the Town of Dagsboro, the Town of Fenwick Island, the City of Milford, and the Town of Bethany Beach, as presented.</b>				
	<b>Motion Adopted:</b>	<b>5 Yeas.</b>			
	<b>Vote by Roll Call:</b>	<b>Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</b>			
<b>Letter to Accompany Grant Checks</b>	<b>Mr. Phillips recommended that letters should accompany grant checks and that the letters should advise the municipalities that, in the future, this grant funding may not be available and, for this reason, the funding should not be incorporated in their budgets.</b>				
<b>Wastewater Agreement</b>	<b>Mr. Godwin presented a Wastewater Agreement for the Council's consideration.</b>				
<b>M 551 08 Execute Wastewater Agreement/ Long Neck Medical Office</b>	<b>A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based on the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 80-04, Agreement No. 810, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and C &amp; J Properties, LLC for the wastewater facilities to be constructed in Long Neck Medical Office located in the Long Neck Sanitary Sewer District.</b>				
	<b>Motion Adopted:</b>	<b>5 Yeas.</b>			
	<b>Vote by Roll Call:</b>	<b>Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</b>			
<b>Old Business/ C/U No. 1759</b>	<b>The Council discussed Conditional Use No. 1759, filed on behalf of Bridle Ridge Properties, LLC. Action was previously deferred on this application on October 30, 2007 when the Public Hearing was held, and again on July 29, 2008.</b>				
	<b>Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on October 11, 2007 at which time the Commission deferred action. On November 29,</b>				

**2007, the Commission recommended that the application be approved, with conditions. More specifically, the Commission recommended approval of Conditional Use No. 1759 for a maximum of 50 multi-family villas and with 12 conditions.**

**Old Business/  
C/U**

**No. 1759  
(continued)**

**It was noted that this application is not associated with the Henlopen Landing subdivision.**

**Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and their recommendation of approval with conditions.**

**Mr. Lank read nineteen (19) proposed conditions which were prepared by Staff in accordance with the Council's directive on July 29, 2008.**

**In response to questions raised by Mr. Cole, Mr. Lank stated that the Applicant will have to resubmit a Preliminary Site Plan to reflect any and all conditions of approval.**

**Mr. Cole stated that the conditions should contain mandatory language, e.g. “the developer of the project would be required to” instead of “the developer agrees to”. It was the consensus of the Council to amend the proposed conditions to reflect the mandatory language that makes the conditions binding.**

**M 552 08  
Adopt  
Ordinance  
No. 1989  
(C/U  
No. 1759)**

**A Motion was made by Mr. Rogers, seconded by Mr. Cole, to Adopt Ordinance No. 1989 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, with the following amended conditions:**

- 1. This parcel is approved for a maximum of 50 multi-family villas.**
- 2. Salt Marsh Boulevard will be maintained by Bridle Ridge Properties, LLC or its successors or assigns, (hereinafter referred to as the “Project”) and not Henlopen Landing.**
- 3. The Project will only have access from Salt Marsh Boulevard with no additional access points from Plantation Road or Beaver Dam Road, in addition to any DelDOT entrance requirements.**
- 4. The Project will have its own amenity package which shall include a clubhouse, pool, walking trails, school bus shelter and park areas. The school bus shelter, if necessary, shall be subject to the approval**

**M 552 08  
Adopt  
Ordinance  
No. 1989  
(C/U  
No. 1759)  
(continued)**

**of the Cape Henlopen School District.**

5. **Residents at the Project will not have any privileges or obligations to pay for the utilization of the amenities of Henlopen Landing.**
6. **The developer of the Project shall be required to install a STOP sign at the access point on Salt Marsh Boulevard and to install streetlights along Salt Marsh Boulevard, as well as install internal streetlights within the Project.**
7. **The developer of the Project shall be required to construct the clubhouse and pool prior to the conveyance of the first villa unit.**
8. **The developer of the Project shall be required to install the sanitary sewer collection system in accordance with Sussex County standards and shall comply with all of the requirements of the County Engineering Department with regards to any improvements to the system necessary to serve this Project.**
9. **The Project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations and approvals, including DNREC, the State Fire Marshal, and the Public Service Commission.**
10. **Sidewalks/Multi-modal paved pathways will be built along both sides of Salt Marsh Boulevard for safe pedestrian travel. These multi-modal pathways are to connect to the DelDOT required pathways along Beaver Dam Road and Plantation Road. Like the Salt Marsh Boulevard, the Project's Homeowners Association will ultimately be responsible for the maintenance as well.**
11. **The Preliminary Site Plan shall be required to be reviewed and approved by the Planning and Zoning Commission showing the revised layout, including the relocation of the entrance at Salt Marsh Boulevard, since this Project is no longer associated with Phase IV of Henlopen Landing Subdivision.**
12. **The stormwater management facilities shall meet or exceed the requirements of the State and County. The facilities shall be constructed and maintained using Best Management Practices.**
13. **The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation facilities.**
14. **The developer shall form a Homeowners Association which shall**

**ultimately be responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities, recreational amenities, and other common areas.**

**M 552 08  
Adopt  
Ordinance  
No. 1989  
(C/U  
No. 1759)  
(continued)**

15. **Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
16. **Within two (2) years of the issuance of the first residential building permit, the developer shall construct all of the recreational amenities.**
17. **Construction, site work, grading and delivery of materials on, off or to the property shall only occur during the hours of 7:00 a.m. through 6:00 p.m., Monday through Saturday.**
18. **Bonding methods shall be required to guarantee completion of all streets, street lighting, stormwater management areas, and other amenities at a rate of 125% of the cost of construction.**
19. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. The Developer shall submit as a part of the site plan review a landscape plan showing the proposed tree and shrub landscape design.**

**Motion Adopted: 5 Yeas.**

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

**Bid  
Award/  
Prince  
George's  
Acres  
Project**

**Julie Cooper, Project Engineer, presented the bid results for Sussex County Project No. 07-07, Prince George's Acres, Phase II, in the Dagsboro Frankford Sanitary Sewer District. Ms. Cooper stated that the Bid is for the construction portion of the Prince George's Acres sewer expansion project. She noted that, at the request of many of the contractors, the Bid included two different bid schedules, one with an Asphalt Component Adjustment and one without an Asphalt Adjustment Component. Ms. Cooper advised that this project is partly funded by a grant and a loan from USDA Rural Utilities Service.**

**M 553 08  
Award  
Bid/  
Prince  
George's  
Acres**

**A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 07-07, Prince George's Acres, Phase II, be awarded to Teal Construction, Inc. of Dover, Delaware, at the Bid Schedule No. 2 amount of \$366,600.00, contingent upon the receipt of approval from the USDA Rural Utilities Service.**

**Project**

**Motion Adopted:** **4 Yeas, 1 Absent.**

**M 553 08  
(continued)**

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

**Johnsons  
Corner  
SSD/  
The  
Hamlet at  
Dirickson  
Pond  
Agreement**

Russell Archut, Assistant County Engineer, presented a Proposed Agreement between Sussex County and The Hamlet at Dirickson Pond LLC, a 90-lot subdivision located near the northern end of the Johnsons Corner Sanitary Sewer District and within the South Coastal Planning Area. Mr. Archut reported that the subdivision is currently being served by a private wastewater collection system and it has an on-site community treatment and disposal system.

Mr. Archut reported that in 2004, the County Council signed an Agreement with the Developer of this Project which required them to connect to the County's sanitary sewer either within 5 years of the first Certificate of Occupancy or when 75 percent of the lots were sold. Mr. Archut advised that the Developer is now close to selling 75 percent of the lots. One of the stipulations of the 2004 Agreement was that the on-site treatment was to be abandoned and the Developer would be responsible for all costs associated with connecting to the County's sewer facilities.

Mr. Archut asked the Council to consider adopting a Revised Agreement obligating the Developer to contribute \$400,000 to the Johnsons Corner Sanitary Sewer District to recover the costs of extending the sewer lines.

Mr. Archut noted that this Agreement would supersede the prior Agreement of 2004; it would cover the costs associated with serving The Hamlet on Dirickson Pond; it would eliminate the existing on-site disposal beds; and it would add front footage and users to the Johnsons Corner Sanitary Sewer District.

**M 554 08  
Approve  
Agreement/  
The  
Hamlet at  
Dirickson**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Agreement with The Hamlet at Dirickson Pond, LLC to provide a contribution in the amount of \$400,000 toward construction costs of the Johnsons Corner Sanitary Sewer District.

**Motion Adopted:** **5 Yeas.**

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

**SCRWF**

**Doug Stewart, Project Engineer, presented a proposal to grant Substantial**

**Treatment Upgrade No. 2 Project** **Completion to the project known as the South Coastal Regional Wastewater Facility, Treatment Upgrade No. 2. Mr. Stewart reported that the County has had Beneficial use of the new facility since November 15, 2007; that this date is 302 calendar days later than the time specified within the Contract for Substantial Completion; that this delay resulted in additional costs to the County in the amount of approximately \$290,000 for construction phase engineering services; and that this amount will be recovered through the reduction of liquidated damages from the final payment of the Contract.**

**Project (continued)**

**M 555 08** **Grant Substantial Completion/ SCRWF Treatment Upgrade No. 2 Project** **A Motion was made by Mr. Dukes, seconded by Mr. Phillips. based upon the recommendation of the Engineering Consultants, Stearns & Wheler, LLC, and the County Engineering Department, that the Sussex County Council grant Substantial Completion, effective November 15, 2007, for County Project No. 02-12-B, South Coastal Regional Wastewater Facilities – Treatment Upgrade No. 2, to C. O. Falter Construction Corporation, and further, that liquidated damages will be deducted from the final payment with any remaining retainage being released in accordance with the terms and conditions of the Contract documents.**

**Motion Adopted:** **5 Yeas.**

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

**Introduction of Proposed Ordinances** **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR RETAIL AND COMMERCIAL WITH 20 APARTMENT UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.69 ACRES, MORE OR LESS” (Conditional Use No. 1812) filed on behalf of Roxana Preferred Properties.**

**Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.08 ACRES, MORE OR LESS” (Conditional Use No. 1813) filed on behalf of Saddle Creek, LLC.**

**Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 1814) filed on behalf of Celvin DeLeon.**

(continued)

**Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A HI-1 HEAVY INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.47 ACRES, MORE OR LESS” (Change of Zone No. 1667) filed on behalf of Wyoming Concrete, LLC.**

**The Proposed Ordinances will be advertised for Public Hearing.**

**Government Affairs Luncheon** Mr. Jones announced that the Sussex County Council would be attending the Government Affairs Luncheon, hosted by the Sussex County Association of Realtors. The Luncheon was held at 12:00 Noon at Sussex Pines Country Club.

There was no additional business brought before the Council.

**M 556 08 Adjourn** A Motion was made by Mr. Dukes, seconded by Mr. Cole, to adjourn at 11:04 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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