



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 7, 2007

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 7, 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
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney

M 483 07 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the
Approve agenda, as written.
Agenda

Motion Adopted: 5 Yeas.

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

Minutes There were no minutes presented for approval.

Corre- Mr. Griffin read the following correspondence:
spondence

GO-GLASS CORPORATION, DOVER, DELAWARE
RE: Letter of invitation to an Open House on August 29, 2007 to celebrate
Mr. Go-Glass' 25th Year in Business.

Appeal Mr. Baker reported that Letters of Appeal had been received from two
Hearing developers regarding the decision made by the Planning and Zoning
Requests/ Commission to deny their respective applications for proposed subdivisions.
Lacrosse He stated that both appeals are subject to the old appeals process, as the
Homes of applications were made prior to the enactment of the new Appeals
Delaware & Procedure Ordinance on February 28, 2007. Mr. Baker stated that the
Rajun Council must decide whether or not to grant the appeals.

**Cajun
Homes,
LLC**

Mr. Lank reported that the Planning and Zoning Commission held a Public Hearing on both applications on May 24, 2007, at which time both subdivision applications were denied.

**Appeal
Hearing
Requests
(continued)**

(Refer to the minutes of the meeting of the Planning and Zoning Commission dated May 24, 2007, for additional information on the applications, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank stated that Subdivision #2006-10, Lacrosse Homes of Delaware, Inc., was denied for the reasons listed in the summary of the Commission's Public Hearing; Subdivision #2006-11, Rajun Cajun Homes, LLC, was denied for lack of a complete record. Mr. Lank stated that neither applicant had requested reconsideration by the Commission.

**M 484 07
Grant
Appeal
Hearing
Requests**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to grant the request for Appeal Hearings to be held for Rajun Cajun Homes, LLC, Subdivision 2006-11, and Lacrosse Homes of Delaware, Subdivision 2006-10.

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

1. Angola Sewer Public Meeting – August 4, 2007

On August 4, 2007, the Sussex County Engineering Department conducted a public meeting to provide additional information regarding the upcoming referendum for the proposed Angola Sewer District. Over 216 people attended the meeting at the Oak Orchard American Legion on Route 24. There was considerable discussion regarding cost and the environmental benefits of the project.

We would like to thank the Engineering Department for their management of the two public meetings. The referendum is scheduled for August 18, 2007 from 8:00 a.m. to 3:00 p.m. at the Lewes-Rehoboth Fire Station No. 2 on Route 24.

2. Heron Bay Development

The County is working with the developer of the Heron Bay development, the State Forestry Department, and the Sussex

**Adminis-
trator's
Report
(continued)**

Conservation District to come up with an improved screen-buffer for the Heron Bay project. A plan from the developer's landscape architect was received on August 6th by the State Forestry Department for review. An amended screen/buffer would be over and above the original approved plans by the Conservation District and the Planning and Zoning Commission. Also, an ordinance is being drafted for possible introduction to tighten the Zoning Code definition of a forested buffer.

Mr. Cole questioned the inspection process of the buffers and asked if the process could be improved in order to prevent potential problems.

Mr. Griffin stated that the new Ordinance will better define forested buffers and will specify exclusions. Mr. Baker stated that a storm water management pond, which is currently allowed as part of the 30-foot buffer, will no longer be included. Mr. Griffin stated that a new Agreement between the Engineering Department and the developer will now include the forested buffer as a bonded item of work which must be completed by the developer.

Mr. Dukes stated that a Sussex County State Senator had commended Mr. Baker and the County staff on their presentation at Angola of the Angola Sanitary Sewer District.

Mr. Rogers questioned if County inspectors were inspecting projects on a daily basis. Mr. Baker stated that projects are not inspected daily, but are regularly inspected by the Planning and Zoning inspectors. The Public Works Department, who inspects the private roads being built within the development, also checks for other conditions and does notify Planning and Zoning of any problems of which they should be aware. Mr. Baker suggested the possibility of hiring an additional inspector whose primary duty would be to inspect the buffers and other various conditions, as they apply to each development.

Mr. Phillips suggested that since the readdressing project is near completion, the extra personnel that were hired in the Mapping and Addressing Department for that purpose could now be allowed to inspect the buffers. Mr. Baker stated that consideration would be given to Mr. Phillips' suggestion.

Mr. Griffin stated that Vince Robertson, Assistant County Attorney, has drafted a first copy of the new Ordinance relating to the buffers and a meeting will be scheduled with Mr. Lank, Mr. Kautz, Mr. Baker, Mr. Robertson, and Mr. Griffin to review and discuss the Ordinance.

Mr. Baker stated that the County will request approval by the Conservation District of all final site plans.

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

Agreement consideration.

M 485 07
Execute
Wastewater
Agreement/
Peninsula
Healthcare
Services

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 605, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Peninsula Healthcare Services, LLC for wastewater facilities to be constructed in the Peninsula Nursing and Rehabilitation Center – Parcels A & B, located in Long Neck 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

Millville
Expansion –
Phase B/
Bethany
Beach
SSD

Brad Hawkes, Director of Utility Engineering, reported to the Council that the Phase A of the Millville Expansion of the Bethany Beach Sanitary Sewer System, has been completed and customers are now connecting to the system.

Mr. Hawkes presented the following bid results for Sussex County Project No. 05-06B, Phase B, Millville Expansion of the Bethany Beach Sanitary Sewer System:

Teal Construction	\$ 3,836,086.00
Metra Industries	4,877,340.00
American Paving Corp.	4,674,081.98
George & Lynch, Inc.	6,529,148.60
Bunting & Murray	4, 499,150.87
A.P. Croll & Sons	4,347,031.00
Underground Utilities Corp.	4,488,772.60
EDW. McGinn	4,714.350.00

M 486 07
Bid Award/
Millville
Expansion/
Bethany
Beach
Sanitary
Sewer
System

A Motion was made by Mr. Jones, seconded by Mr. Phillips, that based upon the recommendation of the Engineering Consultants, Whiteman, Requardt and Associates, LLP, and the Engineering Department, that Sussex County Project No. 05-06B, Millville Expansion of the Bethany Beach Sanitary Sewer District, Banks Harbor, Mill Run & miscellaneous southern extensions, bid schedule 1 with alternate, be awarded to Teal Construction, Inc. of Dover, Delaware, at the bid amount of \$3,836,086, contingent upon the receipt of approval from the Delaware Department of Natural Resources.

Motion Adopted: 5 Yeas.

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

**M 487 07
Adopt
R 020 07/
Johnson's
Corner
Sanitary
Sewer
District**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Resolution No. R 020 07 entitled "RESOLUTION TO ESTABLISH THE JOHNSON'S CORNER 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**

Request

Mr. Baker presented the following request for the Council's consideration:

**M 488 07
Youth
Activity
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$500 (\$100 from each Youth Activity Grant Account) to Safe Kids Delaware for Sussex County Safe Kids Day.

Motion Adopted: 5 Yeas.

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

**M 489 07
Authorize
Executive
Session**

At 10:40 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Phillips, to authorize Council to go into Executive Session for the purpose of discussing property acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 10:41 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing land acquisition. The Executive Session concluded at 11:25 a.m.

**M 490 07
Return to
Regular
Session**

At 11:26 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Jones, to come out of Executive Session and return to Regular Session.

Motion Adopted: 5 Yeas.

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

M 491 07 At 11:27 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Jones
Recess to recess until 1:30 p.m. Motion adopted by Voice Vote.

Reconvene At 1:35 p.m. Mr. Dukes called the Council back into session.

Mr. Baker was not present for the Public Hearings.

Public A Public Hearing was held on the Proposed Ordinance entitled “AN
Hearing ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
(C/U AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLUMBING
No. 1690) BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND
LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,
CONTAINING 10.5655 ACRES, MORE OR LESS” (Conditional Use No.
1690) filed on behalf of Delmar Plumbing, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on July 12, 2007 at which time they agreed unanimously to forward the application with conditions to the County Council for approval.

(See the minutes of the meeting of the Planning and Zoning Commission dated July 12, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

An Exhibit Booklet and a copy of the surveyed site plan were distributed to Council.

Eugene Bayard, Attorney, was present on behalf of Delmar Plumbing and its owners, Abel Rodriguez and Fabian Rodriguez, who were also present. Mr. Bayard stated the applicants wish to open a plumbing business on a former poultry farm. They plan to redevelop certain structures on the property, including the poultry houses, to be used as storage buildings, to convert the home into an office, to build two new storage buildings for plumbing materials, and to establish the property as a staging area for employees to pick up materials and transport to job sites. They plan to have one full-time employee on site and currently employ 15-20 off-site. Mr. Bayard stated that there would be no impact on wetlands or tax ditches; that there would be no removal of trees; that there is a private well and septic system on site; and that there would be no change in the traffic level of service.

Mr. Bayard distributed letters of support to the Council and stated that the

project is consistent with the economic development element of the Comprehensive Land Use Plan.

When questioned by Mr. Bayard, Abel Rodriguez, stated that he understood and accepted the conditions of the application as set forth by the Planning and Zoning Commission.

(continued) The Council found that there were no parties present in support of or in opposition to the application and the Public Hearing was closed.

**M 492 07
Adopt
Ordinance
No. 1917
(C/U No.
1690)** **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1917 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PLUMBING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 10.5655 ACRES, MORE OR LESS (Conditional Use No. 1690) filed on behalf of Delmar Plumbing, Inc., with the following conditions:**

- 1. Hours of operation shall be from 7:00 a.m. through 6:00 p.m. Monday through Saturday.**
- 2. Parking to be shown on the Final Site Plan shall be provided to accommodate not less than 15 service vehicles and shall be located so as to be shielded from neighboring properties as practical.**
- 3. No gasoline or diesel fuel storage or waste oil storage is permitted on site.**
- 4. The existing home on the property may be used as an office.**
- 5. One unlit sign, three feet by six feet (3 feet x 6 feet) is permitted.**
- 6. There shall be no outside storage of materials or supplies.**
- 7. Tax Ditch Easements shall be verified on the Final Site Plan.**
- 8. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**
- 9. There shall be no retail sales.**
- 10. The exterior of the existing poultry houses shall be maintained in good repair.**

Motion Adopted: 5 Yeas.

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

Mr. Dukes, Yea

**Public
Hearing
(C/U
No. 1693)**

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 MULTI-UNIT WAREHOUSE FOR SMALL CONTRACTORS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.74 ACRES, MORE OR LESS” (Conditional Use No. 1693) filed on behalf of H & L Land Company, LLC.

**Public
Hearing
(C/U
No. 1693
(continued))**

The Planning and Zoning Commission held a Public Hearing on this application on July 12, 2007, at which time the Commission recommended approval of the application with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated July 12, 2007, for additional information on the application, correspondence received and the Public Hearing before the Commission.)

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

An Exhibit Booklet was distributed to Council.

Mr. Lank stated that no additional comments had been received in reference to this application.

The Council found that David Rutt, Attorney, was present on behalf of H&L Land Company. Mr. Rutt stated that an existing building on the site will be renovated for use as an office, other existing buildings will be demolished, and a Flex warehouse will be constructed, which will used as a storage space facility primarily by small contractors. Mr. Rutt stated that the property is located on Route 13 and only 1.5 acres of the 4.7-acre property are usable. The rest of the property is wetlands, which will not be disturbed. Mr. Rutt stated that the applicant accepts all of the conditions as set forth by the Planning and Zoning Commission; however, Mr. Rutt requested that the hours of operation be amended to state that the hours of operation would be from 6:00 a.m. to 8:00 p.m., “except in an emergency” (Condition #10). Mr. Rutt explained the request for the added clause as being necessary in case a contractor, such as a plumber, would need his equipment on a weekend for an emergency.

Joe Heflebower of H&L Land Company was present and stated that he understood and was in agreement with the conditions as set forth by the Planning and Zoning Commission, and asked that Council consider the request to amend the hours of operation by adding an “emergency” clause.

The Council found that no parties were present in support of or in

opposition to the application and the Public Hearing was closed.

**M 493 07
Adopt
Ordinance
No. 1918**

**M 493 07
Adopt
Ordinance
No. 1918
(C/U
No. 1693)
(continued)**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1918 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MULTI-UNIT WAREHOUSE FOR SMALL CONTRACTORS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.74 ACRES, MORE OR LESS, (Conditional Use No. 1693) Filed on behalf of H & L Land Company, LLC., with the following amended conditions:

- 1. The project shall be used for indoor storage purposes only. There shall not be any outside storage, including boats, RV’s, or equipment within the project.**
- 2. Any security lights shall only be on the buildings and shall be screened so that they do not shine on any neighboring properties.**
- 3. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission.**
- 4. There will be no retail sales from the site.**
- 5. There will be no manufacturing on the site.**
- 6. The facility shall not be open on Sundays.**
- 7. There shall be fencing around the buildings and parking area.**
- 8. The parking lot will be crusher run with an adequate area for tenants and employees.**
- 9. There is an on-site septic system with a bathroom in the existing office building. No bathrooms shall be permitted in the Flex building.**
- 10. Hours of operation will be from 6:00 a.m. until 8:00 p.m. Monday through Saturday, except in the event of an emergency.**
- 11. One sign shall be permitted, not to exceed 32 square feet in size, with directional lighting.**
- 12. There shall be a vegetated buffer on the northern side of the site. The buffer shall be shown on the Final Site Plan.**
- 13. No maintenance of vehicles or on-site fuel operations shall be permitted.**
- 14. The applicant will comply with all DelDOT requirements.**

15. Any vehicles parked overnight shall be located on the west end of the building.

Motion Adopted: 5 Yeas.

**M 493 07
(continued)**

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

**M 494 07
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to adjourn the meeting at 2:05 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Gaye King
Administrative Secretary**