



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 14, 2007

#### Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 14, 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
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
James D. Griffin	County Attorney

#### M 495 07 Approve Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by deleting the Grant Request from "Delmarva Christian High School" and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

#### M 496 07 Approve Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the minutes of July 17, 2007.

Motion Adopted: 4 Yeas, 1 Absent.

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

#### Corre- spondence

Mr. Griffin read the following correspondence:

**THE AUXILIARY OF MILFORD MEMORIAL HOSPITAL, MILFORD, DELAWARE.**

**RE: Letter in appreciation of Mr. Jones' and Mr. Rogers' contribution to the Milford Hospital Fair.**

**KIRBY MILLS, BOY SCOUT TROOP 95.**

**RE: Letter in appreciation of Mr. Jones' donation to his Eagle Project.**

**Corre-  
spondence  
(continued)**

**BOYS & GIRLS CLUBS OF DELAWARE.**

**RE: Letter in appreciation of the Council's donation to their 2006/2007 Annual Fund.**

**GEORGE H. BUNTING, JR., SENATOR OF THE STATE OF  
DELAWARE, DOVER, DELAWARE.**

**RE: Letter acknowledging and thanking Mike Izzo, Russell Archut, and David Baker "for the tremendous job they did in representing Sussex County at the August 4th Angola Neck Sanitary Sewer District meeting.**

**HELEN WILLIAMS, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of the Council's donation to their 5K Walk/Run Fundraising Event.**

**GEORGETOWN FIRE COMPANY, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of the Council's donation to their Annual Golf Tournament Fundraiser.**

**The  
Wellness  
Community-  
Delaware**

**Jo Wilkins from The Wellness Community-Delaware provided information on their organization and what they are doing in Sussex County to enhance their cancer support services. The Wellness Community-Delaware is part of a national nonprofit organization that provides support, education and hope to people with cancer and their loved ones. Ms. Wilkins stated that they provide cancer support services free of charge as they want no barriers to people wanting to access their services. She advised that their Sussex County office is located in the Tunnell Health Center on Route 24.**

**Sussex  
County  
Land  
Trust**

**Dennis Forney and Wendy Baker of the Sussex County Land Trust reported on activities the Land Trust has been involved in since 2002 and distributed a report on the history of acquisitions and easements and major events.**

**Adminis-  
trator's  
Report**

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

**1. Senior League World Series 2007**

**On Saturday, August 11, 2007, at the Roxana Pyle Center, the final game of the Senior League Softball World Series was held. The Southwest Team from Texas defeated a USA Central Team from Indiana. This game will be televised on ESPN 2 on August 27 at 2:00 p.m. The Sussex County, Delaware, District III Team from Laurel finished in third place out of ten teams from the United States and abroad.**

We wish to especially congratulate the Laurel team on their accomplishment and thank the many volunteers who made this tournament a success.

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

**2. Angola Neck Sanitary Sewer District**

The Sussex County Engineering Department will be conducting a referendum at the Lewes-Rehoboth Fire Station No. 3, 21194 John J. Williams Highway (Route 24) near Angola Neck, Delaware, on Saturday, August 18, 2007, from 8:00 a.m. until 3:00 p.m. The purpose of the referendum is to establish the Angola Neck Sanitary Sewer District.

**3. State Resource Area Map Lawsuit**

The Court of Chancery has agreed to certify the State Resource Area lawsuit as a class action suit, which means that anyone in the State who owns land that was designated on the DNREC maps as containing NRA or SRA has a right to join the case as an additional party plaintiff. Thus, a notice will be sent to those people and they will be given some specific time period to decide whether or not to have their names added as plaintiffs.

**4. Beneficial Acceptance**

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

- Lands of 274 Associates (a/k/a Sterling Crossing), Agreement No. 585, was granted Beneficial Acceptance on August 6, 2007. The developer is 274 Associates, L.L.C., and the project is located on Sussex County Road 274, Old Landing Road, in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 140 duplex units.
- The Seasons, Agreement No. 561, was granted Beneficial Acceptance on August 8, 2007. The developer is 3 Seasons, L.L.C., and the project is located on Sussex County Road 273, Country Club Road, in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 32 single-family condominium units, 56 multi-family duplexes, and 30 multi-family townhouse units.
- Fenwick Plaza, Parcel A, Agreement No. 322, was granted Beneficial Acceptance on August 8, 2007. The developer is West Fenwick Plaza, L.L.C., and the project is located on Route 54, 1/4 mile east of County Road 381, in the Fenwick Island Sanitary

**Sewer District, consisting of a commercial site for three buildings.**

**Included with this report was a fact sheet on each of the projects.**

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

**5. Joe Lee Carter**

**We regret to inform you that a former employee, Joe Lee Carter, passed away on August 12, 2007. Mr. Carter served as a custodian from December 6, 1979, through December 28, 2004. We send his family our condolences.**

**Contin-  
uation of  
Public  
Hearing/  
Piney  
Neck  
Expansion  
of the  
DFSSD**

**The Public Hearing was continued 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 Dagsboro (the Piney Neck Expansion of the Dagsboro – Frankford Sanitary Sewer District).**

**The opening Public Hearing was held on July 31, 2007 at which time the Council heard questions and concerns from residents in the area. On that date, the Public Hearing was closed, the record was left open and action was deferred for two weeks.**

**John Ashman, Director of Utility Planning, reported that the Engineering Department compiled a list of answers to questions and concerns heard on July 31st and put the information in written form. A copy of this document and a map describing the expansion area was mailed to all adjacent property owners; a copy was also provided to the Council.**

**Mr. Ashman reported that the deferment on July 31st caused the Engineering Department to exceed the time allotted by State Law for the County Council to adopt a Resolution establishing the District expansion (within thirty days of posting). For this reason, the Engineering Department must repost, re-advertise, and hold another Public Hearing on the proposed expansion. Mr. Ashman stated that the tentative date for the second Public Hearing is September 18th.**

**Mr. Ashman reported that no new comments have been received since July 31, 2007.**

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

**M 497 07  
Establish  
Second  
Public  
Hearing/**

**A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the first Public Hearing for the Piney Neck Expansion of the Dagsboro-Frankford Sanitary Sewer District be closed and that the Sussex County Engineering Department is authorized to re-post notices and establish a second Public Hearing for the extension, as presented.**

**Piney  
Neck  
Expansion  
of the  
DFSSD**

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

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

**Bid  
Results/  
EOC  
Furniture**

**Michael Izzo, County Engineer, presented bid results for Sussex County Project No. 07-02, Sussex County Emergency Operations Center Furniture, including console furniture, EOC workstations, situation room conference table, and warranty and maintenance. Five bids were received; one bid was rejected, as follows:**

<b>Systems Manufacturing Corporation</b>	<b>\$259,368.00</b>
<b>Xybix Systems</b>	<b>\$279,960.00</b>
<b>Evans</b>	<b>\$377,177.00</b>
<b>Bramic Creative Business Products</b>	<b>\$384,474.34</b>
<b>Watson Dispatch</b>	<b>Bid Rejected</b>

**Mr. Izzo advised that the Engineer's estimated cost for the project was between \$200,000 and \$300,000.**

**M 498 07  
Award  
Bid/  
EOC  
Furniture**

**A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Emergency Operations Center Project No. 07-02, Communications Center Furniture, be awarded to Systems Manufacturing Corporation of Conklin, New York, at a cost of \$259,368.00, contingent upon the County Engineer's Review of the vendor's references.**

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

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

**Temporary  
Wastewater  
Service  
Agreement/  
Windstone**

**Michael Izzo, County Engineer, presented a Temporary Wastewater Service Agreement with Artesian Wastewater Company for the Windstone Development, an approved development for 360 units. Mr. Izzo advised that Artesian has a CPCN to serve the Development. Mr. Izzo reported that the Proposed Agreement is structured as follows: as homes are connected to the Windstone Development Collection System, which will be operated and maintained by Artesian, Sussex County would be notified of the connections being made. At that time, Sussex County would begin a process of billing Artesian for the West Rehoboth transmission front footage as well as the West Rehoboth service charge. This Agreement would be in place for up to five years or when Artesian has its wastewater treatment plant on line. Also, there would be a cap of a maximum of 100 homes that could be connected to the system. Mr. Izzo noted that this would provide a stream of finance for the West Rehoboth Sewer District (if 100 homes connect, revenues would be approximately \$40,000 per year). Mr. Izzo noted that**

**the Development is adjacent to the West Rehoboth Sewer District.**

**Mr. Dukes expressed concern about (1) opening up the door for a flood of other developments wanting the same thing and (2) the development is not located in the District.**

**Temporary Wastewater Service Agreement/ Windstone (continued)**      **Rodney Wyatt of Artesian stated that the facility that will serve this project is the Island Farm Facility; a conditional use for this facility was recently approved. It is expected that this facility will be operational within the next 15 to 18 months.**

**Mr. Cole requested documentation that could be provided to the Council for further consideration and he requested that action be deferred for one week. Mr. Izzo stated that he would put together a package of information and distribute it to the Council.**

**Rodney Wyatt explained that Artesian wants to build a regional system in lieu of constructing multiple facilities and that the Proposed Agreement would eliminate the hauling of wastewater across the County to the treatment plant.**

**M 499 07**      **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action**  
**Defer**      **until September 11, 2007 on the Proposed Temporary Wastewater Service**  
**Action on**      **Agreement with the Windstone Development.**  
**Temporary**

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

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

**Requests**      **Susan Webb presented grant requests for the Council's consideration.**

**M 500 07**      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give**  
**Council-**      **\$300.00 (\$100.00 each from Mr. Jones', Mr. Phillips', and Mr. Cole's**  
**manic**      **Councilmanic Grant Accounts) to the Sussex Central Soccer Boosters for**  
**Grant**      **expenses, i.e. uniforms, equipment, etc.**

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

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

**M 501 07**      **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00**  
**Council-**      **from Mr. Jones' Councilmanic Grant Account to the Greater Georgetown**  
**manic**      **Chamber of Commerce for a commercial needs study of the Georgetown**  
**Grant**      **19947 zip code area.**

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

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

**M 502 07 Councilmanic Grant** A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 (\$250.00 each from Mr. Jones' and Mr. Cole's Councilmanic Grant Accounts) to the City of Rehoboth Beach for the bandstand performance by the Delaware State University Marching Band.

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

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

**M 503 07 Councilmanic Grant** A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$75.00 from Mr. Cole's Councilmanic Grant Account to the Indian River Volunteer Fire Company for their basket bingo fundraiser.

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

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

**M 504 07 Community Investment Grant** A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$5,000.00 from Mr. Phillips' Community Investment Grant Account to the Millsboro Hut, Inc. for building renovations.

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

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

**M 505 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 Colonel David Hall Chapter of the National Society of the Daughters of the American Revolution (NSDAR) for exterior repairs to the Maull House.

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

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

**M 506 07** A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give

**Councilmanic Grant**                    **\$478.50 from Mr. Rogers' Councilmanic Grant Account to the Town of Milton for portable restrooms for the town park during the summer months.**

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

**M 506 07**                    **Vote by Roll Call:        Mr. Cole, Yea; Mr. Phillips, Yea;**  
**(continued)**                    **Mr. Rogers, Yea; Mr. Jones, Absent;**  
   **Mr. Dukes, Yea**

**M 507 07**                    **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give**  
**Councilmanic Grant**                    **\$200.00 (100.00 each from Mr. Jones' and Mr. Rogers' Councilmanic Grant**  
   **Accounts) to the Milford Community Band for expenses.**

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

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

**M 508 07**                    **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give**  
**Community Investment Grant**                    **\$5,000.00 from Mr. Rogers' Community Investment Grant Account to**  
   **Lewes Canalfront Park for construction costs.**

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

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

**M 509 07**                    **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give**  
**Community Investment Grant**                    **\$1,000.00 from Mr. Rogers' Community Investment Grant Account to the**  
   **Milton CatSnippers, Inc. for the Trap-Neuter Return Project.**

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

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

**M 510 07**                    **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give**  
**Councilmanic Grant**                    **\$250.00 from Mr. Rogers' Councilmanic Grant Account to the Ellendale**  
   **Community Civic Improvement Association (ECCIA) for their awards**  
   **banquet.**

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

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



**Mr. Dukes, Yea**

**M 511 07 Councilmanic Grant**      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$100.00 from Mr. Jones' Councilmanic Grant Account to the Woodbridge High School for a program advertisement in support of the Football Team.**

**M 511 07 (continued)**      **Motion Adopted:      4 Yeas, 1 Absent.**

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

**Defer Action on Grant Requests**      **Action was deferred on the grant requests from the Bridgeville Apple-Scrapple Festival, the Town of Bridgeville, and the International Association of Approved Basketball Officials (IAABO Board #129).**

**M 512 07 Councilmanic Grant**      **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Dukes' Councilmanic Grant Accounts) to Gumboro Mud Bog for the American Cancer Society.**

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

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

**Introduction of Proposed Ordinance**      **Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL FARMER'S MARKET WITH A SMALL PETTING ZOO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS" (Conditional Use No. 1762) filed on behalf of T. S. Smith & Sons Farm, Inc. The Proposed Ordinance will be advertised for Public Hearing.**

**Public Hearing (C/U No. 1756)**      **A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL WATER UTILITY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.49 ACRES, MORE OR LESS" (Conditional Use No. 1756) filed on behalf of Artesian Water Company, Inc.**

**The Planning and Zoning Commission held a Public Hearing on this application on July 26, 2007 at which time the Commission recommended that the application be approved with five conditions.**

(See the minutes of the meeting of the Planning and Zoning Commission dated July 26, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

**Public  
Hearing  
(C/U  
No. 1756)  
(continued)**

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

Mr. Lank distributed an Exhibit Booklet provided by the Applicant.

Mr. Lank reported that two additional letters of correspondence have been received since July 26, 2007; (1) a letter from the Sussex Conservation District and (2) a Memorandum from the Sussex County Engineering Department stating that the site is located within the North Coastal Planning Area and that the Engineering Department has no objection to the water utility facility proposed.

The Council found that Brian Carbaugh, Director of Engineering Design of Artesian Water Company, Inc. was present with Dennis Schrader, Attorney. They stated that the site is located within the Heron Bay subdivision where a temporary facility currently exists; that the purpose of this application is to create a regional water system that will serve the area; that the proposed facility will be a larger, permanent water facility; that there will be a 30,000 gallon below-grade clear well underneath the building that will replace the existing temporary treatment plant; that the emergency generator and the pressurized storage tank will remain; that the building is proposed to be compatible with the residential character of the area; that there will be some treatment chemicals stored on the site and in the building; that there will be no elevated storage (which is considered to be a 150 – 165 foot tall structure); that the facility will interconnect with other facilities which will benefit their other water facilities throughout their water supply areas; that this facility will have a capacity of 1,000 gallons per minute; that landscaping will be provided and will be shown on the Final Site Plan; that they have CPCNs to serve the projects listed; and that any expansions to the system will require additional CPCNs.

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

**M 513 07  
Adopt  
Ordinance  
No. 1917  
(C/U  
No. 1756)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1917 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL WATER UTILITY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.49 ACRES, MORE OR LESS" (Conditional Use No. 1756) filed on behalf of Artesian Water Company, Inc., with the following conditions:

1. There shall not be any elevated water towers constructed on the site.

2. Landscaping shall be provided on the site. The landscaping shall be shown on the Final Site Plan.

3. All structures shall have a residential appearance.

**M 513 07**  
**Adopt**  
**Ordinance**  
**No. 1917**  
**(C/U**  
**No. 1756)**  
**(continued)**

4. All improvements for water distribution, including wells, treatment facilities, and storage facilities shall be maintained in accordance with the requirements of the Delaware Department of Health or any other governmental agency with jurisdiction over the use of the site, or any modification thereto.

5. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

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

**Public**  
**Hearing**  
**(C/U**  
**No. 1757)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL WATER UTILITY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.52 ACRES, MORE OR LESS” (Conditional Use No. 1757) filed on behalf of Artesian Water Company, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on July 26, 2007 at which time the Commission recommended that the application be approved with five conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated July 26 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

Mr. Lank reported that two additional letters of correspondence have been received since July 26, 2007; (1) a letter from the Sussex Conservation District and (2) a Memorandum from the Sussex County Engineering Department stating that the site is located within the North Coastal Planning Area and that the Engineering Department has no objection to the water utility facility proposed.

**Public  
Hearing  
(C/U  
No. 1757)  
(continued)**

The Council found that Brian Carbaugh, Director of Engineering Design for Artesian Water Company, Inc. was present with Dennis Schrader, Attorney. They stated that the site is located within the Stonewater Creek Subdivision; that an existing water treatment facility exists in the Subdivision; that there are no proposed changes to the facility other than to interconnect the piping that is served by this facility into their regional system; that no new construction is planned; that no elevated water towers are proposed; that water storage is located within the building; that the facility has a 400 gallon per minute capacity and once combined with the Heron Bay facility, would provide a capacity of 1,400 gallons per minute; that there is a water quality issue at this site that they address with a treatment system that removes the nitrates from the water; that there will be some treatment chemicals stored on the site and in the building; that the facility is regulated by DNREC, Office of Drinking Water and the Department of Health; that the interconnection of water systems provides redundancy, i.e should there be a problem with one water supply system, the other water supply systems can help cover that; and that another benefit is water for fire protection.

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

**M 514 07  
Adopt  
Ordinance  
No. 1929  
(C/U  
No. 1757)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 1929 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL WATER UTILITY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.52 ACRES, MORE OR LESS” (Conditional Use No. 1757) filed on behalf of Artesian Water Company, Inc., with the following conditions:

1. There shall not be any elevated water towers constructed on the site.
2. Landscaping shall be provided on the site. The landscaping shall be shown on the Final Site Plan.
3. All structures shall have a residential appearance.
4. All improvements for water distribution, including wells, treatment facilities, and storage facilities shall be maintained in accordance with the requirements of the Delaware Department of Health or any other governmental agency with jurisdiction over the use of the site, or any modification thereto.
5. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

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

**M 515 07 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at  
Adjourn 8:08 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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